#1528591274

ID: 88081650

HD
216
.C573
nos.
2500-2549

BLM Library
Denver Federal Center
Bldg. 85, OC-521
P.O. Box 25047
Denver, CO 80225

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

43 CFR Part 2800

[Circular No. 2500]

Rights-of-Way, Principles and Procedures; Amendment

Under the authority of title V of the Federal Land Policy and Management Act of 1975 (43 U.S.C. 1761–1771), Part 2800, Group 2800, Subchapter B, Chapter II of Title 43 of the Code of Federal Regulations is amended as set forth below.

PART 2800—RIGHTS-OF-WAYS, PRINCIPLES AND PROCEDURES

1. Group 2800 is amended by adding the following note to the beginning of the Table of Contents:

Group 2800—Use; Rights-of-Way

Note.—The information collection requirements contained in Parts 2800 and 2880 of Group 2800 have been approved by the Office of Management and Budget under 44 U.S.C. 3507 and assigned clearance numbers 1004–0060 and 1004–0107. The information is being collected to allow the authorized officer to determine if the applicant is qualified to hold a right-of-way grant, to determine if the issuance of a grant is in the public interest and to make other land management decisions. This information will be used in making those determinations. The obligation to respond is required to obtain a benefit.

§§ 2802.3–1—2802.2–6 [Removed]

2. Sections 2802.3–1, 2802.3–2, 2802.3–3, 2802.3–4, 2802.3–5 and 2802.3–6 are removed in their entirety and § 2802.3 is revised as follows:

§ 2802.3 Application content.

(a) Applications for right-of-way grants or temporary use permits shall be filed on a form approved by the Director. The application form shall contain instructions for the completion of the form and shall require the following information:

(1) The name and address of the applicant and the applicant's authorized agent, if appropriate;

(2) A description of the applicant's proposal;

(3) A map, USGS quadrangle, aerial photo or equivalent, showing the approximate location of the proposed right-of-way and facilities on public lands and existing improvements adjacent to the proposal, shall be attached to the application. Only the existing adjacent improvements which the proposal may directly affect need be shown on the map;

(4) A statement of the applicant's technical and financial capability to construct, operate, maintain and terminate the proposal;

(5) Certification by the applicant that he/she is of legal age, authorized to do business in the State and that the information submitted is correct to the best of the applicant's knowledge.

(b) The applicant may submit additional information to assist the authorized officer in processing the application. Such information may include, but is not limited to, the following:

(1) Federal or State approvals required for the proposal;

(2) A description of the alternative route(s) and mode(s) considered by the applicant when developing the proposal;

(3) Copies of or reference to similiar applications or grants the applicant has submitted or holds;

(4) A statement of need and economic feasibility or the proposal;

(5) A statement of the environmental, social and economic effects of the proposal.

§ 2802.4 [Amended]

3. Section 2802.4 is amended by revising paragraph (h) to read:

* * * * *

(h) The authorized officer may include in his/her decision to issue a grant a provision that shall be included in a right-of-way grant requiring that no construction on or use of the right-of-way shall occur until a detailed construction, operation, rehabilitation and environmental protection plan has been submitted to and approved by the authorized officer. This requirement may be imposed for all or any part of the right-of-way.

§ 2802.5 [Amended]

4. Section 2802.5 is amended by:

(a) Inserting at the beginning of the first paragraph of the section the figure "(a)";

(b) Redesignating existing paragraphs (a), (b) and (c) as subparagraphs (1), (2) and (3); and

(c) Adding a new paragraph (b) to read:

* * * * *

(b) In order to facilitate management of the public lands, any person or State or local government which has constructed public highways under the authority of R.S. 2477 (43 U.S.C. 932, repealed October 21, 1976) may file a map showing the location of such public highways with the authorized officer. Maps filed under this paragraph shall be in sufficient detail to show the location of the R.S. 2477 highway(s) on public lands in relation to State or county highway(s) or road(s) in the vicinity. The submission of such maps showing the location of R.S. 2477 highway(s) on public lands shall not be conclusive evidence as to their existence. Similiarly, a failure to show the location of R.S. 2477 highway(s) on any map shall not preclude a later finding as to their existence.

* * * * *

Subpart 2805—Applicants for Electric Power Transmission Lines of 66 KV or Above [Removed]

5. Subpart 2805—Applications for Electric Power Transmission Lines of 66 KV or Above—is removed in its entirety.

Garrey E. Carruthers,
Assistant Secretary of the Interior
December 4, 1981.

[FR Doc. 82–7803 Filed 3–22–82; 8:45 am]

Published in 47 F.R. 12568, March 23, 1982 - Effective April 22, 1982.

Circular Distribution List

GPO 834 - 955

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

43 CFR Part 2880

[Circular No. 2501]

Amendment to the Rights-of-Way Under the Mineral Leasing Act Regulations

Under the authority of section 28 of the Mineral Leasing Act of 1920, as amended (30 U.S.C. 185), Part 2880, Subchapter B, Chapter II, Title 43 of the Code of Federal Regulations is amended as set forth below.

PART 2880—RIGHTS-OF-WAY UNDER THE MINERAL LEASING ACT

§ 2882.1 [Amended]

1. Section 2882.2–1 is amended in paragraph (a) by removing the last two sentences thereof, removing paragraphs (b), (c), (d), (e), (f), (g), (h), (k), and (l), by redesignating paragraph (i) as paragraph (b) and removing the last sentence thereof, and by redesignating paragraph (j) as paragraph (c).

2. Section 2882.2–2(a) is revised as follows:

§ 2882.2–2 Application filing.

(a) Where the Federal lands involved are under the jurisdiction of the Bureau of Land Management, Department of the Interior, application for a right-of-way grant or temporary use permit or for a renewal of either shall be filed with either the Area Manager, the District Manager or the State Director of a Bureau of Land Management office having jurisdiction over the Federal lands involved.

* * * * *

3. Section 2882.2–3 is revised as follows:

§ 2882.2–3 Application content.

(a) Applications for right-of-way grants and temporary use permits shall be filed on a form approved by the Director. The application form shall contain instructions for completion of the form and shall require the following information:

(1) The name and address of the applicant and the applicant's agent, if appropriate;

(2) A description of the applicant's proposal;

(3) A map, USGS quadrangle, aerial photo or equivalent, showing the approximate location of the proposed right-of-way and facilities on public lands and existing improvements adjacent to the proposal, shall be attached to the application. Only the existing adjacent improvements which the proposal may directly affect need be shown on the map;

(4) A statement of the applicant's technical and financial capability to construct, operate, maintain and terminate the proposals;

(5) Certification by the applicant that he/she is of legal age, authorized to do business in the State and that the information submitted is correct to the best of the applicant's knowledge; and

(6) Disclose, to the extent applicable, the applicant's citizenship and the partnership, corporation, association and other business entity information required by § 2882.2–1 of this title.

(b) The applicant may submit additional information to assist the authorized officer in processing the application. Such information may include, but is not limited to, the following:

(1) Federal or State approvals required for the proposal;

(2) A description of the alternative route(s) and mode(s) considered by the applicant when developing the proposal;

(3) Copies of or reference to similar applications or grants the applicant has submitted or holds;

(4) A statement of need and economic feasibility or other proposal; and

(5) A statement of the environmental, social and economic effects of the proposal.

§ 2882.2–4 [Removed]

4. Section 2882.2–4 is removed in its entirety.

§ 2882.3 [Amended]

5. Section 2882.3 is amended by revising paragraph (m) to read:

* * * * *

(m) At the discretion of the authorized officer, a provision may be placed in a right-of-way grant or temporary use permit requiring that no construction or use shall occur until a detailed construction, operation, rehabilitation and environmental protection plan has been submitted to the authorized officer and a notice to proceed has been issued. This requirement may be imposed for all or any part of the right-of-way.

Garrey E. Carruthers,

Assistant Secretary of the Interior.

December 4, 1981.

[FR Doc. 82–7804 Filed 3–22–82; 8:45 am]

Published in 47 F.R. 12570, March 23, 1982 - Effective April 22, 1982.

Circular Distribution List

GPO 834 - 956

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

43 CFR Part 1820

[Circular No. 2502]

Application Procedures; Place of Filing of Simultaneous Oil and Gas Leasing Applications

Under the authority of section 310 of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1701 et. seq.), Subpart 1821, Part 1820, Group 1800, Subchapter A, Chapter II of Title 43 of the Code of Federal Regulations is amended as set forth below.

Garrey E. Carruthers,

Assistant Secretary of the Interior.

March 31, 1982.

PART 1820—APPLICATION PROCEDURES

1. Section 1821.2–1 is amended by revising the introductory text of paragraph (d) to read:

§ 1821.2–1 [Amended]

* * * * *

(d) The Bureau of Land Management has redelegated authority to District and Area Offices for processing certain types of public lands disposal and use authorization applications. In those instances where delegation has been made to the District or Area Office from the State Office, applications shall be filed with the District or Area Office having responsibility for the public lands covered by the requested action. Accordingly, applicants, prior to the filing of an application, should contact the State, District or Area Office of the Bureau of Land Management in their immediate vicinity or where the public lands being applied for are located. Simultaneous oil and gas lease applications shall be filed in the States where the public lands covered by such applications are located until a notice is published in the **Federal Register** directing that all future applications shall be filed only in the Wyoming State Office. Such notice shall be published at least 30 days prior to its effective date. The locations of the offices are as follows:

* * * * *

Garrey E. Carruthers,

Assistant Secretary of the Interior.

March 31, 1982.

[FR Doc. 82–9024 Filed 4–2–82; 8:45 am]

Published in 47 F.R. 14487, April 5, 1982 - Effective May 1, 1982.

Circular Distribution List

GPO 835 - 132

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

43 CFR Parts 3140 and 3150

[Circular No. 2503]

Combined Hydrocarbon Leasing; Conversion of Existing Oil and Gas Leases and Valid Claims Based on Mineral Locations

Under the authority of the Combined Hydrocarbon Leasing Act of 1981 (Pub. L. 97-78), the Mineral Lands Leasing Act of 1920, as amended (30 U.S.C. 181 et seq.), the Mineral Leasing Act for Acquired Lands, as amended (30 U.S.C. 351-359 et seq.) and the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1701 et seq.), Group 3100, Subchapter C, Chapter II of the Code of Federal Regulations is amended by redesignating existing Part 3140 as Part 3150 and adding a new Part 3140 as set forth below.

PART 3140—COMBINED HYDROCARBON LEASING

Note.—The information collection requirements contained in Part 3140 of Group 3100 have been approved by the Office of Management and Budget under 44 U.S.C. 3507 and assigned clearance number 1004-0118. The information is being collected to allow the authorized officer to determine if the applicant for conversion of an existing oil and gas lease or valid claim based on a mineral location to a combined hydrocarbon lease is qualified for such conversion. This information will be used in making those determinations. The obligation to respond is required to obtain a benefit.

Subpart 3140—Conversion of Existing Oil and Gas Leases and Valid Claims Based on Mineral Locations

Sec.

3140.0-1 Purpose.
3140.0-3 Authority.
3140.0-5 Definitions.
3140.1 General provisions.
3140.1-1 Existing rights.
3140.1-2 Notice of intent to convert.
3140.1-3 Exploration plans.
3140.1-4 Other provisions.
3140.2 Applications.
3140.2-1 Forms.
3140.2-2 Who may apply.
3140.2-3 Application requirements.
3140.3 Time limitations.
3140.3-1 Conversion applications.
3140.3-2 Action on an application.
3140.4 Conversion.
3140.4-1 Approval of plan of operations (and unit and operating agreements).
3140.4-2 Issuance of the combined hydrocarbon lease.
3140.5 Duration of lease.
3140.6 Leasing of additional lands.
3140.7 Lands within the National Park System.

Subpart 3140—Conversion of Existing Oil and Gas Leases and Valid Claims Based on Mineral Locations

§ 3140.0-1 Purpose.

The purpose of this subpart is to provide for the conversion of existing oil and gas leases and valid claims based on mineral locations within Special Tar Sand Areas to combined hydrocarbon leases.

§ 3140.0-3 Authority.

These regulations are issued under the authority of the Mineral Lands Leasing Act of February 25, 1920 (30 U.S.C. 181 et seq.), the Mineral Leasing Act for Acquired Lands (30 U.S.C. 351 et seq.), and the Combined Hydrocarbon Leasing Act of 1981 (Pub. L. 97-78).

§ 3140.0-5 Definitions.

As used in this subpart, the term:

(a) "Combined hydrocarbon lease" means a lease issued in a Special Tar Sand Area for the removal of gas and nongaseous hydrocarbon substances other than coal, oil shale or gilsonite.

(b) "A complete plan of operations" means a plan of operations which is in substantial compliance with the information requirements of 30 CFR 231.10 for both exploration plans and mining plans, as well as any additional information required in these regulations and under 30 CFR 2310.10, as may be appropriate.

(c) "Special Tar Sand Area" means an area designated by the Department of the Interior's orders of November 20, 1980 (45 FR 76800), and January 21, 1981 (46 FR 6077) referred to in those orders as Designated Tar Sand Areas, as containing substantial deposits of tar sand.

(d) "Supervisor" means the District Mining Supervisor of the Minerals Management Service, unless the plan of operations proposes only an in-situ process where no mining is involved in which case it means the District Oil and Gas Supervisor of the Minerals Management Service.

(e) "Owner of an oil and gas lease" means all of the record title holders of an oil gas lease.

(f) "Owner of a valid claim based on a mineral location" means all parties appearing on the title records recognized as official under State law as having the right to sell or transfer any part of the mining claim, which was located within a Special Tar Sand Area prior to January 21, 1926, for any hydrocarbon resource, except coal, oil shale or gilsonite, leasable under the Combined Hydrocarbon Leasing Act.

(g) "Unitization" means unitization as that term is defined in 30 CFR Part 226.

§ 3140.1 General provisions.

§ 3140.1-1 Existing rights.

(a) The owner of an oil and gas lease issued prior to November 16, 1981, or the owner of a valid claim based on a mineral location situated within a Special Tar Sand Area may convert that portion of the lease or claim so situated to a combined hydrocarbon lease, provided that such conversion is consistent with the provisions of this subpart.

(b) Owners of oil and gas leases in Special Tar Sand Areas who elect not to convert their leases to a combined hydrocarbon lease do not acquire the rights to any hydrocarbon resource except oil and gas as those terms were defined prior to the enactment of the Combined Hydrocarbon Leasing Act of 1981. The failure to file an application to convert a valid claim based on a mineral location within the time herein provided shall have no effect on the validity of the mining claim nor the right to maintain that claim.

§ 3140.1-2 Notice of intent to convert.

(a) Owners of oil and gas leases in Special Tar Sand Areas which are scheduled to expire prior to the effective date of these regulations or within 6 months thereafter, may preserve the right to convert their leases to combined hydrocarbon leases by filing a Notice of Intent to Convert with the State Director, Utah State Office, Bureau of Land Management, 136 E. South Temple, Salt Lake City, Utah 84111.

(b) A letter, submitted by the lessee, notifying the Bureau of Land Management of the lessee's intention to submit a plan of operations shall constitute a notice of intent to convert a lease. The Notice of Intent shall contain the lease number.

(c) The Notice of Intent shall be filed prior to the expiration date of the lease.

Published in 47 F.R. 22474, May 24, 1982 - Effective June 23, 1982.

Circular Distribution List

The notice shall preserve the lessee's conversion rights only for a period ending 6 months after the effective date of this subpart.

§ 3140.1-3 Exploration plans.

(a) The supervisor may grant permission to holders of existing oil and gas leases to gather information to develop, perfect, complete or amend a plan of operations required for conversion upon the approval of the supervisor of an exploration plan developed in accordance with 30 CFR 231.10(b).

(b) The approval of an exploration plan in units of the National Park System requires the consent of the Regional Director or the National Park Service in accordance with § 3140.7 of this title.

(c) The filing of an exploration plan alone shall be insufficient to meet the requirements of a complete plan of operations as set forth in § 3140.2-3 of this title.

§ 3140.1-4 Other provisions.

(a) A combined hydrocarbon lease shall be for no more than 5,120 acres. Acreage held under lease in a Special Tar Sand Area is not chargeable to State oil and gas limitations allowable in §§ 3101.1-5 and 3101.2-4 of this title.

(b) The rental rate for a combined hydrocarbon lease shall be $2 per acre per year and shall be payable annually in advance.

(c)(1) The royalty rate for a combined hydrocarbon lease converted from an oil and gas lease shall be that provided for in the original oil and gas lease.

(2) The royalty rate for a combined hydrocarbon lease converted from a valid claim based on a mineral location shall be 12½ percent.

(3) A reduction of royalties may be granted either as provided in § 3103.3-7 of this title or, at the request of the lessee and upon a review of information provided by the lessee, prior to commencement of commercial operations if the purpose of the request is to promote development and the maximum production of tar sand.

(d)(1) Existing oil and gas leases and valid claims based on mineral locations may be unitized prior to or after the lease or claim has been converted to a combined hydrocarbon lease. The requirements of 30 CFR Part 226 shall provide the procedures and general guidelines for unitization of combined hydrocarbon leases. For leases within units of the National Park System, unitization requires the consent of the Regional Director of the National Park Service in accordance with § 3140.4-1(b) of this title. The supervisor reviewing the proposed unit agreement shall be the same supervisor reviewing the plan of operations.

(2) If the plan of operations submitted for conversion is designed to cover a unit, a fully executed unit agreement shall be approved before the plan of operations applicable to the unit may be approved under § 3140.2 of this title. The proposed plan of operations and the proposed unit agreement may be reviewed concurrently. The approved unit agreement shall be effective after the leases or claims subject to it are converted to combined hydrocarbon leases. The plan of operations shall explain how and when each lease included in the unit operation will be developed.

(e) Except as provided for in this subpart, the regulations set out in part 3100 of this title are applicable, as appropriate, to all combined hydrocarbon leases issued under this subpart.

§ 3140.2 Applications.

§ 3140.2-1 Forms.

No special form is required for a conversion application.

§ 3140.2-2 Who may apply.

Only owners of oil and gas leases issued on or before November 16, 1981, owners of valid claims based on mineral locations are eligible to convert leases or claims to combined hydrocarbon leases in Special Tar Sand Areas.

§ 3140.2-3 Application requirements.

(a) The applicant shall submit to the State Director, Utah State Office of the Bureau of Land Management, a written request for a combined hydrocarbon lease signed by the owner of the lease or valid claim which shall be accompanied by 3 copies of a plan of operations which shall meet the requirements of 30 CFR 231.10 (b) and (c) and which shall provide for reasonable protection of the environment and diligent development of the resources requiring enhanced recovery methods of development or mining.

(b) A plan of operations may be modified or amended before or after conversion of a lease or valid claim to reflect changes in technology, slippages in schedule beyond the control of the lessee, new information about the resource or the economic or environmental aspects of its development, changes to or initiation of applicable unit agreements or for other purposes. To obtain approval of a modification or amended plan, the applicant shall submit a written statement of the proposed changes or supplements and the justification for the changes proposed. Any modifications shall be in accordance with 30 CFR 231.10(e). The approval of the modification or amendment is the responsibility of the supervisor. Changes or modification to the plan of operations shall have no effect on the primary term of the lease. The supervisor shall, prior to approving any amendment or modification, review the modification or amendment with the appropriate surface management agency. For leases within units of the National Park System, no amendment or modification shall be approved without the consent of the Regional Director of the National Park Service in accordance with § 3140.7 of this title.

(c) The plan of operations may be for a single existing oil and gas lease or valid claim or for an area of proposed unit operation.

(d) The plan of operations shall identify by lease number all Federal oil and gas leases proposed for conversion and identify valid claims proposed for conversion by the recordation number of the mining claim.

(e) The plan of operations shall include any proposed designation of operator or proposed operating agreement.

(f) The plan of operations may include an exploration phase, if necessary, but it shall include a development phase. Such a plan can be approved even though it may indicate work under the exploration phase is necessary to perfect the proposed plan for the development phase as long as the overall plan demonstrates reasonable protection of the environment and diligent development of the resources requiring enhanced recovery methods of mining.

(g)(1) Upon determination that the plan of operations is complete, the supervisor shall notify the authorized officer who shall then suspend the term of the Federal oil and gas lease(s) as of the date that the complete plan was filed until the plan is finally approved or rejected. Only the term of the oil and gas lease shall be suspended, not any operation and production requirements thereunder.

(2) If the supervisor determines that the plan of operations is not complete, the applicant shall be notified that the plan is subject to rejection if not completed within the period specified in the notice.

(3) The supervisor may request additional data after the plan of operations has been determined to be complete. This request for additional information shall have no effect on the suspension of the running of the oil and gas lease.

§ 3140.3 Time limitations.

§ 3140.3–1 Conversion applications.

A plan of operations to convert an existing oil and gas lease or valid claim based on a mineral location to a combined hydrocarbon lease shall be filed on or before November 15, 1983, or prior to the expiration of the oil and gas lease, whichever is earlier, except as provided in § 3140.1–2 of this title.

§ 3140.3–2 Action on an application.

The authorized officer shall, with the advise of the supervisor, take action on an application for conversion within 15 months of receipt of a proposed plan of operations.

§ 3140.4 Conversion.

§ 3140.4–1 Approval of plan of operations (and unit and operating agreements).

(a) The owner of an oil and gas lease, or the owner of a valid claim based on a mineral location shall have such lease or claim converted to a combined hydrocarbon lease when the plan of operations, filed under § 3140.2 of this title, is deemed acceptable and is approved by the supervisor.

(b) The conversion of a lease within a unit of the National Park System shall be approved only with the consent of the Regional Director of the National Park Service in accordance with § 3140.7 of this title.

(c) A plan of operations may not be approved in part but may be approved where it contains an appropriately staged plan of exploration and development operations.

§ 3140.4–2 Issuance of the combined hydrocarbon lease.

(a) After a plan of operations is found acceptable, and is approved, the authorized officer shall prepare and submit to the owner, for execution, a combined hydrocarbon lease containing all appropriate terms and conditions, including any necessary stipulations that were part of the oil and gas lease being converted, as well as any additional stipulations, such as those required to ensure compliance with the plan of operations.

(b) The authorized officer shall not sign the combined hydrocarbon lease until it has been executed by the conversion applicant and the lease or claim to be converted has been formally relinquished to the United States.

(c) The effective date of the combined hydrocarbon lease shall be the first day of the month following the date that the authorized officer signs the lease.

(d)(1) Except to the extent that any such lease would exceed 5,210 acres, the authorized officer may issue, upon the request of the applicant, 1 combined hydrocarbon lease to cover contiguous oil and gas leases or valid claims based on mineral locations which have been approved for conversion.

(2) To the extent necessary to promote the development of the resource, the authorized officer may issue, upon the request of the applicant, 1 combined hydrocarbon lease that does not exceed 5,120 acres, which shall be as nearly compact as possible, to cover non-contiguous oil and gas leases or valid claims which have been approved for conversion.

§ 3140.5 Duration of the lease.

A combined hydrocarbon lease shall be for a primary term of 10 years and for so long thereafter as oil or gas is produced in paying quantities.

§ 3140.6 Use of additional lands.

(a) The authorized officer may noncompetitively lease additional lands for ancillary facilities in a Special Tar Sand Area that are needed to support any operations necessary for the recovery of tar sand. Such uses include, but are not limited to, mill site or waste disposal. Application for a lease or permit to use additional lands shall be filed under the provisions of Part 2920 of this title with the proper BLM office having jurisdiction of the lands. The application for additional lands may be filed at the time a plan of operations is filed.

(b) A lease for the use of additional lands shall not be issued when the use can be authorized under Parts 2800 and 2880 of this title. Such uses include, but are not limited to, reservoirs, pipelines, electrical generation systems, transmission lines, roads, and railroads.

(c) Within units of the National Park System, permits or leases for additional lands shall only be issued by the National Park Service. Applications for such permits or leases shall be filed with the Regional Director of the National Park Service.

§ 3140.7 Lands within the National Park System.

Conversions of existing oil and gas leases and valid claims based on mineral locations to combined hydrocarbon leases within units of the National Park System shall be allowed only where mineral leasing is permitted by law and where the lands covered by the lease or claim proposed for conversion are open to mineral resource disposition in accordance with any applicable minerals management plan. (See § 3101.4–5 of this title). In order to consent to any conversion or any subsequent development under a combined hydrocarbon lease requiring further approval, the Regional Director of the National Park Service shall find that there will be no resulting significant adverse impacts on the resources and administration of such areas or on other contiguous units of the National Park System in accordance with § 3109.5(e) of this title.

PART 3150 [REDESIGNATED FROM PART 3140]

2. Existing Part 3140 is redesignated Part 3150.

Dated: May 7, 1982.

Garrey E. Carruthers,

Assistant Secretary of the Interior.

[FR Doc 82–14033 Filed 5–21–82; 8:45 am]

GPO 835 - 672

Cir. - #2503

Monday
May 24, 1982

Federal Register

Part II

Department of the Interior

Bureau of Land Management

Combined Hydrocarbon Leasing; Conversion of Existing Oil and Gas Leases and Valid Claims Based on Mineral Locations; Final Rulemaking

Federal Register

Monday
May 22, 1989

Part II

Department of the Interior

Bureau of Land Management

Combined Hydrocarbon Leasing;
Conversion of Existing Oil and Gas
Leases and Valid Claims Based on
Mineral Locations; Final Rulemaking

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

43 CFR Parts 3140 and 3150

[Circular No. 2503]

Combined Hydrocarbon Leasing; Conversion of Existing Oil and Gas Leases and Valid Claims Based on Mineral Locations

AGENCY: Bureau of Land Management, Interior.

ACTION: Final rulemaking.

SUMMARY: This final rulemaking provides the procedures that the Secretary of the Interior will use to convert existing oil and gas leases and valid claims based on mineral locations in Special Tar Sand Areas to combined hydrocarbon leases as required by the Combined Hydrocarbon Leasing Act of 1981.

EFFECTIVE DATE: June 23, 1982.

ADDRESS: Any suggestions or remarks should be sent to: Director (540), Bureau of Land Management, 1800 C Street, NW., Washington, D.C. 20240.

FOR FURTHER INFORMATION CONTACT: Edward E. Coggs, (202) 343–3258, or Richard J. Aiken, (202) 343–3258, or Robert C. Bruce, (202) 343–8735.

SUPPLEMENTARY INFORMATION: The proposed rulemaking on Combined Hydrocarbon Leasing: Conversion of Existing Oil and Gas Leases and Valid Mining Claims was published in the Federal Register on March 1, 1982 (47 FR 8734), with a 30-day comment period provided. On March 3, 1982, a notice of extension of the comment period was published in the Federal Register (47 FR 9026). Public meetings were held on the proposed rulemaking on March 18, 1982, in Salt Lake City, Utah; Vernal, Utah, and Price, Utah.

Eighteen written comments were received on the proposed rulemaking, four of which were received after the close of the comment period. However, since the four comments included those from the Governor and the Congressional representatives of the one State that would be directly affected by the rulemaking, it was decided that these and all other comments received after the close of the comment period would be considered. These 18 comments came from the following sources: 10 from industry, 1 from an industry association, 5 from Federal agencies, including 1 from a Congressional source, and 2 from representatives of State and local governments. In addition, viewpoints were expressed verbally at the public meetings. All comments, including both verbal and written, were given careful consideration.

In general, the comments were favorable to the rulemaking. Specific comments will be discussed in connection with the sections to which they refer.

Section 3140.0–5

Several comments raised questions about what constituted a complete plan of operations under subsection (b). Specifically, the comments wanted to know if an exploration plan filed under 30 CFR 231.10(b) would suffice. One of the comments contained the views of two individuals who took an active part in the passage of the Combined Hydrocarbon Leasing Act. The comment suggested that the intent of the authors of the legislation was that applicants not be allowed to convert before they are fully committed or prepared to pursue diligent development of the tar sand resource and that the mechanism for ensuring this commitment was a complete plan of operations which included both an exploration plan and a mining plan. This comment is supported by the language of the legislation; therefore, the definition of a complete plan of operations was modified to clarify that the requirements of both subsections (b) and (c) of 30 CFR 231.10 must be met before a plan can be determined to be complete.

The definition for a complete plan of operations provided in the comment discussed above was accepted in the final rulemaking but was modified in one way. Where the the suggested definition would have required that all of the required information be supplied before a plan can be determined to be complete, the final rulemaking is worded to allow for discretion with reference to minor, nonsubstantive deficiencies.

Several comments suggested that the reference to 30 CFR 231.10 be amended to include some guidance for *in situ* operations. The Minerals Management Service is amending 30 CFR Part 231 to provide a cross reference to 30 CFR Part 221. For plans of operations dealing with *in situ* projects, a plan of operations should be filed under 30 CFR Part 231, but the information that is required would be that described in 30 CFR Part 221.

Several comments suggested information that should be included in the definition of a complete plan of operations in paragraph (b). The contents of the plan of operations are the responsibility of the Minerals Management Service and are beyond the scope of this rulemaking. Therefore, these comments were not incorporated into this final rulemaking.

Several comments were received which recommended additional language be added to paragraph (e) which would limit the definition of the term "owner of an oil and gas lease" to those with a working interest. For purposes of affecting the legal title to a lease, the Department of the Interior only recognizes record title holders as responsible parties, regardless of whether they hold the full working interest or only a nonoperating working interest. It is the responsibility of the applicant to ensure that all record title holders are in agreement with the decision to convert. No change has been made in this paragraph of the final rulemaking.

One comment was received suggesting that the term "owner of a mining claim" be defined. This suggestion has been adopted in principle and the term "owner of a valid claim based on a mineral location," which more closely tracts the language of the Combined Hydrocarbon Leasing Act is defined in the final rulemaking.

One comment suggested than the term "authorized officer" be included in the definition section. The term "authorized officer" is defined in § 3000.0–5(f) of this title and applies to this subpart; therefore, the final rulemaking has not been changed to include this suggestion.

Section 3140.1–1

Several comments were received noting that the proposed regulations were silent as to the status of oil and gas leases and valid claims based on mineral locations that lie only partially within a Special Tar Sand Area. The comments felt that in those situations, the Department of the Interior should allow the entire lease or claim to be converted to a combined hydrocarbon lease. The Combined Hydrocarbon Leasing Act and paragraph (a) of § 3140.1–1 of the final rulemaking state that combined hydrocarbon leases can only be issued within a Special Tar Sand Area. The Department has no authority to issue a combined hydrocarbon lease for lands that are outside of those boundaries. Therefore, oil and gas leases and valid claims that straddle the boundary of the Special Tar Sand Area will have to be split and only that portion which lies within the Special Tar Sand Areas can be converted. This suggestion has not been adopted by the final rulemaking.

One comment was received which suggested different language for paragraph (b) as it applies to valid claim owners. The suggested language is a

better explanation of the effect of not applying for conversion on the status of a valid mining claim and was, therefore, adopted.

Section 3140.1–2

One comment noted that the "Notice of Intent to Convert" provision of the proposed rulemaking would not apply to holders of valid claims based on mineral locations who want to convert since the "Notice of Intent to Convert" only serves to preserve the right to convert for applicants whose rights will expire shortly after these rules take effect. Since a mining claim does not have a set term, there would be no danger of its expiring. Therefore, the reference to a recordation number of the mining claim in paragraph (b) has been deleted by the final rulemaking.

Section 3140.1–3

Several comments felt that paragraph (a) required that a plan of operations be completed and approved before any exploration could take place.

The intent of this section of the proposed rulemaking was to authorize exploration that might be needed for development of a plan of operations. Therefore, to clarify this paragraph, the phrase "operation plan" was changed to "exploration plan" and the reference to 30 CFR 231.10 was clarified in the final rulemaking to explain that § 231.10(b) applied.

Paragraph (b) was changed in the final rulemaking in response to a comment by the National Park Service. Paragraph (b) now requires the consent of the Regional Director of the National Park Service for an exploration plan for an oil and gas lease which is located on a unit of the National Park System rather than requiring a separate special use permit issued by the National Park Service. With this change, a separate permitting process is eliminated while still ensuring that the National Park Service concerns can be reflected during exploration.

A new paragraph (c) has been added to the final rulemaking which explains that exploration plans do not meet the requirement for a complete plan of operations.

One comment was received which suggested that owners of valid claims based on mineral locations be notified of any application for an exploration permit that might impact their holdings and that the mining claimant be entitled to share any information resulting from the exploration. This suggestion was not incorporated in the final rulemaking because it revolves around the larger question of conflicting interests which will be decided on a case-by-case basis during the adjudication of the claims.

Section 3140.1–4

One comment objected to the 5,120 acre limitation on the size of a converted combined hydrocarbon lease. The comment remarked that the Combined Hydrocarbon Leasing Act allowed conversion of all oil and gas leases in the Special Tar Sand Areas and that larger tracts may be necessary to develop the tar sand. The 5,120 acre limitation was placed in the rules to enable the oil and gas leases and/or valid claims to be combined up to the size that the Congress felt was sufficient to support the operations of combined hydrocarbon lease obtained competitively. This provision would have little effect on the conversion of existing oil and gas leases that may be larger than 5,120 acres. In those instances, the oil and gas lease would be divided into two or more combined hydrocarbon leases of no more than 5,120 acres each. There is no limit to the number of combined hydrocarbon leases that can be held. If the leaseowner preferred to operate the several combined hydrocarbon leases as one lease, he/she would, upon applying for conversion, file one plan of operations covering all of his/her leases as a unit operation. For the reasons stated above, no change has been made in the final rulemaking.

Reductions in royalty rates can be granted either after commencement of commercial operations or prior to commencement of commercial operations. However, as one comment noted, there are two separate authorities that allow royalty rate reductions and they have different standards for granting such reductions. Therefore, changes were made to paragraph (c)(3) of the final rulemaking to clarify that the royalty rate can only be reduced prior to commencement of commercial operations, if the reduced royalty rate will promote development and the maximum production of tar sand.

One comment suggested that the reduced royalty rate discussed in paragraph (c) be established at the time that the combined hydrocarbon lease is issued or that standards be set for any royalty reduction in this rulemaking. The Combined Hydrocarbon Leasing Act provides a fixed royalty rate. Only a tar sand "lessee" may apply for a royalty reduction. The Act contemplates examination and possible reduction of the royalty after lease issuance and before commercial operations begin. Standards to be used in judging royalty reduction have not been set in the final rulemaking due to the embryonic state of tar sand development. Further, any standards issued now may have the effect of preempting the development of new technologies.

The discussion in the preamble to the proposed rulemaking relating to paragraph (c) stated that the royalty would be applied to the amount or value of the crude oil removed or sold from the lease. Several comments noted that the product produced from the tar sand lease could range from ore, untreated bitumen, partially upgraded bitumen, or fully upgraded bitumen and that, therefore, assessing the royalty rate on crude oil would be presumptuous. Conversion of the tar sand resource to a useable product is likely to require substantial and costly processing and upgrading. The proposed rulemaking envisioned taking these processing and upgrading costs into account when the leaseowner applied for a reduction in the royalty rate as allowed in § 3140.1–4(c)(3). However, it is clear that this procedure would simply result in mass application for royalty reductions by all of the tar sand operators. Therefore, a better standard than crude oil is necessary. As assessing royalties is the responsibility of the Minerals Management Service, this final rulemaking defers to their regulations on this matter.

Several comments referred to aspects of the unitization provisions in paragraph (d). Some comments felt that the proposed rulemaking would only allow unit agreements prior to conversion. Others were concerned that some of the procedures in 30 CFR Part 226 would not be appropriate for tar sand operations. Several comments pointed out that following the requirements of 30 CFR Part 226 may result in unit agreements and plans of operations being reviewed by separate officers. Several comments were concerned that the plans of operations would not be given a serious review until the unit agreements were approved. Finally, one comment felt that the subsection needed to highlight the role of the National Park Service.

To clarify that combined hydrocarbon leases could be unitized after conversion as well as before, the final rulemaking divides paragraph (d) into (d)(1) and (d)(2). Paragraph (d)(1) provides guidance for unit agreements for combined hydrocarbon leases which are developed either before conversion or after conversion. It provides more flexibility in the application of the requirements of 30 CFR Part 226 and clarifies that the review of the unit agreement and plan of operations be by the same person. Paragraph (d)(2)

applies only when development of the resource as described in the plan of operations is predicated on a unit agreement. In such cases, the plan of operations and the unit agreement can be reviewed concurrently, but the plan of operations cannot be approved until the unit agreement is fully executed.

Several comments felt that the requirements of paragraph (d) of the proposed rulemaking that a unit agreement be fully executed before a plan of operations could be approved would be difficult given the November 1982 and November 1983 time constraints. They further suggested that to rectify this, the rulemaking should provide for conditional approval of the plan of operations subject to the applicant obtaining commitment of the required interest. The requirement has not been changed in the final rulemaking. The November 1982 and November 1983 time frames refer to filing dates not approval dates. The final rulemaking requires that the plan of operations may not be approved before the unit agreement is fully executed. The actual time constraints for fully executing the unit agreement are February 1984 and February 1985. If the unit agreement is not fully executed within the 15-month time frame that the Combined Hydrocarbon Leasing Act requires for the Department of the Interior to take action, then the Department would have no choice but to disapprove the conversion. The Act based the right of conversion on the ability of the applicant to produce tar sand. If the applicant does not have sufficient commitment by the necessary parties to enable the resource to be developed then the applicant does not have the right to convert. It should be noted that developing tar sand through a unit agreement is not mandatory. Unlike oil and gas development, where the resource is located in a pool, it is not necessary that every owner of a lease in a particular area be a part of a unit agreement in order for the agreement to be approved.

Several comments were received which suggested that a provision be added to paragraph (d) which would allow approval of the commitment of Federal combined hydrocarbon leases to a unit or cooperative agreement adopted under State law. The comments go on to state that such commitments are allowed for conventional oil and gas operations. The suggestion was not incorporated in the final rulemaking because it is not needed. The existing oil and gas regulations apply to tar sand development unless specifically made not applicable by this rulemaking.

Section 3140.2–3

Several comments dealt with paragraph (b). Additional language was suggested and adopted in the final rulemaking which would clarify when modifications would be required. In addition, the different standards between the proposed rulemaking and those in 30 CFR 231.10(e) for justifying a modification were noted in several comments. To rectify this situation, the procedures from 30 CFR 231.10(e) have been written into this paragraph of the final rulemaking and the citation for 30 CFR 231.10(e) dropped. Finally, two comments noted that while approval of a plan of operations dealing with a unit of the National Park System required the consent of the National Park Service, no mention of the National Park Service's role in approving modifications was provided. Therefore, this paragraph of the final rulemaking has been conformed with the procedures for approving conversions.

References were included in paragraphs (c) and (d) of the final rulemaking to make them applicable to conversions of valid claims based on mineral locations to combined hydrocarbon leases in response to one comment.

A new paragraph (f) has been added by the final rulemaking to explain that the plan of operations must demonstrate development of the resource even if additional exploration is required after conversion.

Paragraph (f) in the proposed rulemaking became paragraph (g) and a new paragraph (g)(2) has been added to the final rulemaking. Paragraph (g)(2) is intended to answer the concern of one comment that the request for additional data after the plan of operations has been determined to be complete might result in the suspension of the running of the term of the lease being revoked.

Several comments were received suggesting that time limitations be placed on the supervisor in paragraph (g) for completion of the review of the plan of operations. The suggested time frames ranged from 15 days to 30 and 90 days. Their concern was that it was possible for a lease to expire or the statutory deadline to be missed due to the failure to file a complete plan of operations even though a plan had been filed but no action had yet been taken. This was a valid concern but putting a time limit on the review could still result in the same situation and would shorten the time available for filing. In response to these comments, paragraph (g) has been modified in the final rulemaking to provide that the suspension of the oil and gas lease would be effective on the date of filing not on the date of the determination of completeness.

One comment was received which suggested that alternative development approaches and time schedules be allowed in the plan of operations. This suggestion, if adopted, would serve to lessen the need for modifications to the plan. The plan of operations must show the applicant's plans for diligently developing the tar sand resource. If after exploration, or for some other reason, the plans need to be changed, provisions exist for amending the plan. At this time, other than resulting in a larger document and thereby requiring more time for review, it was felt that alternative development plans would add little to the rulemaking and the suggestion has not been adopted in the final rulemaking.

One comment suggested language requiring that all agencies reviewing proposed plans of operations complete their review within 15 months from the date the plan is referred for review by the Minerals Management Service. Review of the plan of operations is a responsibility of the Minerals Management Service and is beyond the scope of this rulemaking. Therefore, the suggestion has not been adopted.

One comment suggested procedures for handling contest or protest procedures. This suggestion has not been adopted in the final rulemaking because sufficient regulatory guidance exists in current regulations on the handling of such matters.

Section 3140.3–1

One comment pointed out that some leases may be under suspension due to no fault of the leaseholder at the time when the plan of operations is approved and the lease is converted. The concern was that the combined hydrocarbon leaseholder would not be able to enjoy the full 10-year lease period. In those situations, existing procedures provide for the period of time lost due to the suspension to be added to the end of the lease term.

Two comments were received suggesting procedures which would require the Bureau of Land Management to notify other holders of rights to hydrocarbons except coal, oil shale or gilsonite of the receipt of an application to convert. This suggestion was rejected by the final rulemaking because it would have placed the Bureau in the position of being potentially liable if it inadvertently fails to notify the owner of a conflicting right.

One comment felt that the regulations should require a simultaneous review of proposed plans of operations by other

agencies, where appropriate. Review of the plan of operations is the responsibility of the Minerals Management Service and is beyond the scope of this rulemaking.

Section 3140.4–1

Paragraph (b) has been revised in the final rulemaking to be consistent with the mineral management regulations of the National Park Service by requiring the consent of, rather than review by, the Regional Director for plans of operations.

Several comments attempted to distinguish between partial plans in 30 CFR 231.10(f) and approving a plan in part as described in paragraph (c) of the proposed rulemaking. No distinction is intended. A plan of operations must be complete as described in § 3140.0–5(b) and must demonstrate the development of the tar sand resource as required in § 3140.2–3(a). This rulemaking allows for exploration after conversion and for modifications to a plan of operations if that exploration results in a need for changes. There should be no need for partial plans and, more importantly, the Department of the Interior has no authority for approving anything but a complete plan of operations before a lease or mining claim can be converted.

Section 3140.4–2

As suggested by one comment, this section has been modified in the final rulemaking to provide a more orderly lease issuance procedure. In addition, several comments suggested that the rulemaking provide for the issuance of one combined hydrocarbon lease which would combine one or more oil and gas leases or valid claims. Due to the administrative convenience that this authority would provide, the ability to combine oil and gas leases and/or valid claims was intended in the original proposed rulemaking as demonstrated in the 5,120 acre limitation provided in § 3140.1–4(a), but was not clearly explained. Paragraph (d)(2) added by the final rulemaking would allow the combination of noncontiguous leases or valid claims within the guidelines of section 6(a) of the Combined Hydrocarbon Leasing Act.

One comment was received which suggested that a mechanism be provided by which affected Federal land managers would be able to assure that potential adverse impacts resulting from tar sand development on adjacent lands are accounted for in the decision to convert a lease and that appropriate mitigation measures are required to ensure that no significant impacts occur on their lands. The mechanism exists in the procedures implementing the National Environmental Policy Act. The approval of the plan of operations is a decision that must undergo an appropriate environmental review. During that review, impacts on Federal and State lands will be assessed. If, after the review of the plan of operations, stipulations in the lease are deemed necessary to ensure a reasonable protection of the environment, they are authorized under paragraph (a). Since sufficient procedures exist, no change has been made by the final rulemaking.

Section 3140.5

Several comments were concerned that the 10-year primary term was too short for a tar sand operation and suggested substituting language which would include the test of substantial financial investment. The Combined Hydrocarbon Leasing Act, as codified, requires that a combined hydrocarbon lease shall have a primary term of 10 years and shall continue "* * * so long after its primary term as oil or gas is produced in paying quantities." The Act goes on to provide one 2-year extension after the primary term and that is authorized only if "* * * actual drilling operations were commenced prior to the end of the primary term and are being diligently prosecuted at that time * * *" Another comment felt that a new 10-year term should not be granted as a result of the conversion. Section 8 of the Act provided the authority to convert the oil and gas lease or valid claim based on a mineral location to "a combined hydrocarbon lease for a primary term of 10 years." No change has been made in this section by the final rulemaking.

Section 3140.6

Several comments were received on this section. Most of the comments referred to an outdated version of section 2920 of Title 43 of the Code of Federal Regulations. That version referred solely to Special Land Use Permits, which had a term of 1-year. The existing section 2920, revised as of October 1, 1981, refers to leases as well as permits. Leases under § 2920.1(a) "shall be issued for a term determined by the authorized officer that is consistent with the time required to amortize the capital investment."

Another concern raised with reference to the previously existing section 2920 was the view that the permit was revocable at the discretion of the authorized officer. It was felt that an easily revocable permit would not provide the assurance necessary to make plans for such an investment. As stated, the existing version of section 2920 deals with leases as well as permits. In addition, § 2920.9–3(a) provides that leases can only be terminated: (1) If the terms of the authorization included a termination clause; (2) for noncompliance with applicable law, regulations, or terms and conditions; (3) failure to use the land for the purpose for which it was authorized; (4) by mutual agreement; or (5) for nonpayment of rent for two consecutive months, following payment due. These provisions should provide the assurances needed to allay the expressed concerns and no change has been made by the final rulemaking.

Several comments on this section also questioned the use of leasing authority under section 302 of the Federal Land Policy and Management Act rather than the authority under section 6(a) of the Combined Hydrocarbon Leasing Act. Section 6(a) will be the authority under which the leasing of additional lands to support operations of the combined hydrocarbon lease will take place. The procedures for issuing such leases are the provisions of section 2920 of this title except when the required lands are on units of the National Park System. In those cases, an application should be filed with the Regional Director of the National Park Service. The Bureau of Land Management will issue rights-of-way under Parts 2800 and 2880 of Title 43 of the Code of Federal Regulations when a right-of-way rather than a lease is more appropriate, such as a pipeline.

Section 3140.7

Two comments were received suggesting changes to this section. The section has been amended by the final rulemaking to delegate to the Regional Director of the National Park Service the requirement of making a finding of no resulting significant adverse impact.

Miscellaneous

One comment was received relative to the distinction between oil and tar sand in areas outside of Special Tar Sand Areas. The rulemaking applies only to areas within Special Tar Sand Areas. Therefore, the comment was not relevant to this rulemaking.

Issues on Valid Claims Based on Mineral Locations

In the proposed rulemaking, the Department of the Interior requested comments on whether this rulemaking should include procedures and showings that would be used for the purposes of converting valid mining claims to a combined hydrocarbon lease. One comment was received in favor of specific procedures for establishing

validity and two were received for addressing the issues involved, when and if there are conflicts between owners of valid claims and oil and gas leases covering the same lands. Verbal comments received at the public meetings came out against establishing validity procedures in these rules. As a result of the apparent lack of support for separate procedures for assessing the validity, this rulemaking does not include any such procedures. The procedures and standards will be established on a case-by-case basis in the adjudication of these applications.

Editorial and Grammatical Changes, as Needed, Have Been Made

The primary authors of this proposed rulemaking are Richard Aiken and Edward Coggs, Division of Coal, Tar Sands, and Oil Shale, Bureau of Land Management and Orval Hadley and Bob Randolf, Utah State Office, Bureau of Land Management, assisted by William Murray, Division of Energy and Resources, Office of Solicitor, Department of the Interior, and the staff of the Office of Legislation and Regulatory Management, Bureau of Land Management, and other Bureau of Land Management and Department of the Interior staff.

The Department of the Interior has determined that this document is a major rule under Executive Order 12291, but that it will not have a significant economic effect on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 et seq.).

The final rulemaking will not present any barriers to small business entry into tar sand development. The requirements for conversion are minimal and designed to be tailored to the size of the proposed operation. An avenue exists for small business entry to tar sand development through the use of the unit operations provisions by which the large costs of developing tar sand can be amortized over a larger resource base. By entering into a unit agreement, the small business cuts the costs of conversion as well since only one plan of operations is necessary to convert all of the oil and gas leases or valid claims included in the unit agreement.

There is little opportunity for any additional tiering of any requirements of the final rulemaking to the size of the applicant. Most of the requirements in this rulemaking were dictated by the Combined Hydrocarbon Leasing Act. Those that are not totally dictated by the Act either have been streamlined and tailored to the size of the proposal to the extent legally permissible, such as the requirements for the plan of operations, or are of a nonconsequential nature relative to the total costs of developing tar sand as exemplified by the estimated rental revenues accruing to the United States in the scenarios in section V.

A Preliminary Regulatory Impact Analysis was developed and made available to the public on March 1, 1982, and a Final Regulatory Impact Analysis and Regulatory Flexibility Analysis has been developed and is available upon request from the Division of Coal, Tar Sands, and Oil Shale, Bureau of Land Management, 1800 C Street N.W., Washington, D.C. 20240.

The Combined Hydrocarbon Leasing Act of 1981 (Pub. L. 97–78) directs the Secretary of the Interior, within 6 months of the effective date of the Act, to issue final regulations under which the owner of an oil and gas lease or a valid claim based on a mineral location, if he/she meets the requirements of the Act, can file an application for conversion of such lease or claim to a combined hydrocarbon lease. This final rulemaking provides the procedure by which qualified owners of oil and gas leases or valid claims based on mineral locations can apply for conversion to combined hydrocarbon leases. This rulemaking will serve the national interest by providing the procedure for development of the tar sand resources that should increase the amount of domestically produced oil.

The information collection requirements contained in 43 CFR Part 3140 have been approved by the Office of Management and Budget under 44 U.S.C. 3507 and assigned number 1004–0118.

List of Subjects in 43 CFR Part 3140

Administrative practice and procedure, Environmental protection, Mineral royalties, Oil and gas reserves, Public lands—mineral resources.

Under the authority of the Combined Hydrocarbon Leasing Act of 1981 (Pub. L. 97–78), the Mineral Lands Leasing Act of 1920, as amended (30 U.S.C. 181 et seq.), the Mineral Leasing Act for Acquired Lands, as amended (30 U.S.C. 351–359 et seq.) and the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1701 et seq.), Group 3100, Subchapter C, Chapter II of the Code of Federal Regulations is amended by redesignating existing Part 3140 as Part 3150 and adding a new Part 3140 as set forth below.

Dated: May 7, 1982.

Garrey E. Carruthers,

Assistant Secretary of the Interior.

PART 3140—COMBINED HYDROCARBON LEASING

Note.—The information collection requirements contained in Part 3140 of Group 3100 have been approved by the Office of Management and Budget under 44 U.S.C. 3507 and assigned clearance number 1004–0118. The information is being collected to allow the authorized officer to determine if the applicant for conversion of an existing oil and gas lease or valid claim based on a mineral location to a combined hydrocarbon lease is qualified for such conversion. This information will be used in making those determinations. The obligation to respond is required to obtain a benefit.

Subpart 3140—Conversion of Existing Oil and Gas Leases and Valid Claims Based on Mineral Locations

Sec.

3140.0–1 Purpose.
3140.0–3 Authority.
3140.0–5 Definitions.
3140.1 General provisions.
3140.1–1 Existing rights.
3140.1–2 Notice of intent to convert.
3140.1–3 Exploration plans.
3140.1–4 Other provisions.
3140.2 Applications.
3140.2–1 Forms.
3140.2–2 Who may apply.
3140.2–3 Application requirements.
3140.3 Time limitations.
3140.3–1 Conversion applications.
3140.3–2 Action on an application.
3140.4 Conversion.
3140.4–1 Approval of plan of operations (and unit and operating agreements).
3140.4–2 Issuance of the combined hydrocarbon lease.
3140.5 Duration of lease.
3140.6 Leasing of additional lands.
3140.7 Lands within the National Park System.

Subpart 3140—Conversion of Existing Oil and Gas Leases and Valid Claims Based on Mineral Locations

§ 3140.0–1 Purpose.

The purpose of this subpart is to provide for the conversion of existing oil and gas leases and valid claims based on mineral locations within Special Tar Sand Areas to combined hydrocarbon leases.

§ 3140.0–3 Authority.

These regulations are issued under the authority of the Mineral Lands Leasing Act of February 25, 1920 (30 U.S.C. 181 et seq.), the Mineral Leasing Act for Acquired Lands (30 U.S.C. 351 et seq.), and the Combined Hydrocarbon Leasing Act of 1981 (Pub. L. 97–78).

§ 3140.0–5 Definitions.

As used in this subpart, the term:

(a) "Combined hydrocarbon lease"

means a lease issued in a Special Tar Sand Area for the removal of gas and nongaseous hydrocarbon substances other than coal, oil shale or gilsonite.

(b) "A complete plan of operations" means a plan of operations which is in substantial compliance with the information requirements of 30 CFR 231.10 for both exploration plans and mining plans, as well as any additional information required in these regulations and under 30 CFR 2310.10, as may be appropriate.

(c) "Special Tar Sand Area" means an area designated by the Department of the Interior's orders of November 20, 1980 (45 FR 76800), and January 21, 1981 (46 FR 6077) referred to in those orders as Designated Tar Sand Areas, as containing substantial deposits of tar sand.

(d) "Supervisor" means the District Mining Supervisor of the Minerals Management Service, unless the plan of operations proposes only an in-situ process where no mining is involved in which case it means the District Oil and Gas Supervisor of the Minerals Management Service.

(e) "Owner of an oil and gas lease" means all of the record title holders of an oil gas lease.

(f) "Owner of a valid claim based on a mineral location" means all parties appearing on the title records recognized as official under State law as having the right to sell or transfer any part of the mining claim, which was located within a Special Tar Sand Area prior to January 21, 1926, for any hydrocarbon resource, except coal, oil shale or gilsonite, leasable under the Combined Hydrocarbon Leasing Act.

(g) "Unitization" means unitization as that term is defined in 30 CFR Part 226.

§ 3140.1 General provisions.

§ 3140.1-1 Existing rights.

(a) The owner of an oil and gas lease issued prior to November 16, 1981, or the owner of a valid claim based on a mineral location situated within a Special Tar Sand Area may convert that portion of the lease or claim so situated to a combined hydrocarbon lease, provided that such conversion is consistent with the provisions of this subpart.

(b) Owners of oil and gas leases in Special Tar Sand Areas who elect not to convert their leases to a combined hydrocarbon lease do not acquire the rights to any hydrocarbon resource except oil and gas as those terms were defined prior to the enactment of the Combined Hydrocarbon Leasing Act of 1981. The failure to file an application to convert a valid claim based on a mineral location within the time herein provided shall have no effect on the validity of the mining claim nor the right to maintain that claim.

§ 3140.1-2 Notice of intent to convert.

(a) Owners of oil and gas leases in Special Tar Sand Areas which are scheduled to expire prior to the effective date of these regulations or within 6 months thereafter, may preserve the right to convert their leases to combined hydrocarbon leases by filing a Notice of Intent to Convert with the State Director, Utah State Office, Bureau of Land Management, 136 E. South Temple, Salt Lake City, Utah 84111.

(b) A letter, submitted by the lessee, notifying the Bureau of Land Management of the lessee's intention to submit a plan of operations shall constitute a notice of intent to convert a lease. The Notice of Intent shall contain the lease number.

(c) The Notice of Intent shall be filed prior to the expiration date of the lease. The notice shall preserve the lessee's conversion rights only for a period ending 6 months after the effective date of this subpart.

§ 3140.1-3 Exploration plans.

(a) The supervisor may grant permission to holders of existing oil and gas leases to gather information to develop, perfect, complete or amend a plan of operations required for conversion upon the approval of the supervisor of an exploration plan developed in accordance with 30 CFR 231.10(b).

(b) The approval of an exploration plan in units of the National Park System requires the consent of the Regional Director or the National Park Service in accordance with § 3140.7 of this title.

(c) The filing of an exploration plan alone shall be insufficient to meet the requirements of a complete plan of operations as set forth in § 3140.2-3 of this title.

§ 3140.1-4 Other provisions.

(a) A combined hydrocarbon lease shall be for no more than 5,120 acres. Acreage held under lease in a Special Tar Sand Area is not chargeable to State oil and gas limitations allowable in §§ 3101.1-5 and 3101.2-4 of this title.

(b) The rental rate for a combined hydrocarbon lease shall be $2 per acre per year and shall be payable annually in advance.

(c)(1) The royalty rate for a combined hydrocarbon lease converted from an oil and gas lease shall be that provided for in the original oil and gas lease.

(2) The royalty rate for a combined hydrocarbon lease converted from a valid claim based on a mineral location shall be 12½ percent.

(3) A reduction of royalties may be granted either as provided in § 3103.3-7 of this title or, at the request of the lessee and upon a review of information provided by the lessee, prior to commencement of commercial operations if the purpose of the request is to promote development and the maximum production of tar sand.

(d)(1) Existing oil and gas leases and valid claims based on mineral locations may be unitized prior to or after the lease or claim has been converted to a combined hydrocarbon lease. The requirements of 30 CFR Part 226 shall provide the procedures and general guidelines for unitization of combined hydrocarbon leases. For leases within units of the National Park System, unitization requires the consent of the Regional Director of the National Park Service in accordance with § 3140.4-1(b) of this title. The supervisor reviewing the proposed unit agreement shall be the same supervisor reviewing the plan of operations.

(2) If the plan of operations submitted for conversion is designed to cover a unit, a fully executed unit agreement shall be approved before the plan of operations applicable to the unit may be approved under § 3140.2 of this title. The proposed plan of operations and the proposed unit agreement may be reviewed concurrently. The approved unit agreement shall be effective after the leases or claims subject to it are converted to combined hydrocarbon leases. The plan of operations shall explain how and when each lease included in the unit operation will be developed.

(e) Except as provided for in this subpart, the regulations set out in part 3100 of this title are applicable, as appropriate, to all combined hydrocarbon leases issued under this subpart.

§ 3140.2 Applications.

§ 3140.2-1 Forms.

No special form is required for a conversion application.

§ 3140.2-2 Who may apply.

Only owners of oil and gas leases issued on or before November 16, 1981, owners of valid claims based on mineral locations are eligible to convert leases or claims to combined hydrocarbon leases in Special Tar Sand Areas.

§ 3140.2-3 Application requirements.

(a) The applicant shall submit to the State Director, Utah State Office of the Bureau of Land Management, a written request for a combined hydrocarbon lease signed by the owner of the lease or valid claim which shall be accompanied by 3 copies of a plan of operations which shall meet the requirements of 30 CFR 231.10 (b) and (c) and which shall provide for reasonable protection of the environment and diligent development of the resources requiring enhanced recovery methods of development or mining.

(b) A plan of operations may be modified or amended before or after conversion of a lease or valid claim to reflect changes in technology, slippages in schedule beyond the control of the lessee, new information about the resource or the economic or environmental aspects of its development, changes to or initiation of applicable unit agreements or for other purposes. To obtain approval of a modification or amended plan, the applicant shall submit a written statement of the proposed changes or supplements and the justification for the changes proposed. Any modifications shall be in accordance with 30 CFR 231.10(e). The approval of the modification or amendment is the responsibility of the supervisor. Changes or modification to the plan of operations shall have no effect on the primary term of the lease. The supervisor shall, prior to approving any amendment or modification, review the modification or amendment with the appropriate surface management agency. For leases within units of the National Park System, no amendment or modification shall be approved without the consent of the Regional Director of the National Park Service in accordance with § 3140.7 of this title.

(c) The plan of operations may be for a single existing oil and gas lease or valid claim or for an area of proposed unit operation.

(d) The plan of operations shall identify by lease number all Federal oil and gas leases proposed for conversion and identify valid claims proposed for conversion by the recordation number of the mining claim.

(e) The plan of operations shall include any proposed designation of operator or proposed operating agreement.

(f) The plan of operations may include an exploration phase, if necessary, but it shall include a development phase. Such a plan can be approved even though it may indicate work under the exploration phase is necessary to perfect the proposed plan for the development phase as long as the overall plan demonstrates reasonable protection of the environment and diligent development of the resources requiring enhanced recovery methods of mining.

(g)(1) Upon determination that the plan of operations is complete, the supervisor shall notify the authorized officer who shall then suspend the term of the Federal oil and gas lease(s) as of the date that the complete plan was filed until the plan is finally approved or rejected. Only the term of the oil and gas lease shall be suspended, not any operation and production requirements thereunder.

(2) If the supervisor determines that the plan of operations is not complete, the applicant shall be notified that the plan is subject to rejection if not completed within the period specified in the notice.

(3) The supervisor may request additional data after the plan of operations has been determined to be complete. This request for additional information shall have no effect on the suspension of the running of the oil and gas lease.

§ 3140.3 Time limitations.

§ 3140.3-1 Conversion applications.

A plan of operations to convert an existing oil and gas lease or valid claim based on a mineral location to a combined hydrocarbon lease shall be filed on or before November 15, 1983, or prior to the expiration of the oil and gas lease, whichever is earlier, except as provided in § 3140.1-2 of this title.

§ 3140.3-2 Action on an application.

The authorized officer shall, with the advise of the supervisor, take action on an application for conversion within 15 months of receipt of a proposed plan of operations.

§ 3140.4 Conversion.

§ 3140.4-1 Approval of plan of operations (and unit and operating agreements).

(a) The owner of an oil and gas lease, or the owner of a valid claim based on a mineral location shall have such lease or claim converted to a combined hydrocarbon lease when the plan of operations, filed under § 3140.2 of this title, is deemed acceptable and is approved by the supervisor.

(b) The conversion of a lease within a unit of the National Park System shall be approved only with the consent of the Regional Director of the National Park Service in accordance with § 3140.7 of this title.

(c) A plan of operations may not be approved in part but may be approved where it contains an appropriately staged plan of exploration and development operations.

§ 3140.4-2 Issuance of the combined hydrocarbon lease.

(a) After a plan of operations is found acceptable, and is approved, the authorized officer shall prepare and submit to the owner, for execution, a combined hydrocarbon lease containing all appropriate terms and conditions, including any necessary stipulations that were part of the oil and gas lease being converted, as well as any additional stipulations, such as those required to ensure compliance with the plan of operations.

(b) The authorized officer shall not sign the combined hydrocarbon lease until it has been executed by the conversion applicant and the lease or claim to be converted has been formally relinquished to the United States.

(c) The effective date of the combined hydrocarbon lease shall be the first day of the month following the date that the authorized officer signs the lease.

(d)(1) Except to the extent that any such lease would exceed 5,210 acres, the authorized officer may issue, upon the request of the applicant, 1 combined hydrocarbon lease to cover contiguous oil and gas leases or valid claims based on mineral locations which have been approved for conversion.

(2) To the extent necessary to promote the development of the resource, the authorized officer may issue, upon the request of the applicant, 1 combined hydrocarbon lease that does not exceed 5,120 acres, which shall be as nearly compact as possible, to cover non-contiguous oil and gas leases or valid claims which have been approved for conversion.

§ 3140.5 Duration of the lease.

A combined hydrocarbon lease shall be for a primary term of 10 years and for so long thereafter as oil or gas is produced in paying quantities.

§ 3140.6 Use of additional lands.

(a) The authorized officer may noncompetitively lease additional lands for ancillary facilities in a Special Tar Sand Area that are needed to support any operations necessary for the recovery of tar sand. Such uses include, but are not limited to, mill site or waste disposal. Application for a lease or permit to use additional lands shall be filed under the provisions of Part 2920 of this title with the proper BLM office having jurisdiction of the lands. The

application for additional lands may be filed at the time a plan of operations is filed.

(b) A lease for the use of additional lands shall not be issued when the use can be authorized under Parts 2800 and 2880 of this title. Such uses include, but are not limited to, reservoirs, pipelines, electrical generation systems, transmission lines, roads, and railroads.

(c) Within units of the National Park System, permits or leases for additional lands shall only be issued by the National Park Service. Applications for such permits or leases shall be filed with the Regional Director of the National Park Service.

§ 3140.7 Lands within the National Park System.

Conversions of existing oil and gas leases and valid claims based on mineral locations to combined hydrocarbon leases within units of the National Park System shall be allowed only where mineral leasing is permitted by law and where the lands covered by the lease or claim proposed for conversion are open to mineral resource disposition in accordance with any applicable minerals management plan. (See § 3101.4–5 of this title). In order to consent to any conversion or any subsequent development under a combined hydrocarbon lease requiring further approval, the Regional Director of the National Park Service shall find that there will be no resulting significant adverse impacts on the resources and administration of such areas or on other contiguous units of the National Park System in accordance with § 3109.5(e) of this title.

PART 3150 [REDESIGNATED FROM PART 3140]

2. Existing Part 3140 is redesignated Part 3150.

[FR Doc 82–14033 Filed 5–21–82; 8:45 am]

BILLING CODE 4310–84–M

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

43 CFR Part 8350

[Circular No. 2504]

Management Areas; Regulations to Implement the National Trails System Act of 1968

Under the authority of section 7(i) of the National Scenic Trails Act (16 U.S.C. 1241 et seq.), subpart 8351, part 8350 of Subchapter H, Chapter II, title 43 of the Code of Federal Regulations is amended as set forth below.

PART 8350—MANAGEMENT AREAS

1. Subpart 8351 is amended by revising the title of § 8351.1 and by adding a new § 8351.1–1 to read as follows:

Subpart 8351—Designated National Area

* * * * *

§ 8351.1 National trails systems.

§ 8351.1–1 National scenic trails.

(a) *Motorized vehicle use.* No one shall operate a motorized vehicle along a national scenic trail except:

(1) When motorized vehicular use is necessary to meet emergencies involving health, safety, fire suppression, or law enforcement; or

(2) Where the authorized officer determines that adjacent landowners and land users have a need for reasonable access to their lands, interests in lands, or timber rights; or

(3) On roads that are designated segments of the National Scenic Trail System and are posted as open to motorized vehicles.

(b) *Penalties.* In accordance with section 7(i) of the National Trails System Act of 1968, as amended (16 U.S.C. 1246), anyone convicted of violating this regulation is subject to a fine not to exceed $500 and/or imprisonment not to exceed six months.

Dated: May 6, 1982.

Garrey E. Carruthers,

Assistant Secretary of the Interior.

[FR Doc. 82–14291 Filed 5–25–82; 8:45 am]

Published in 47 F.R. 23102, May 26, 1982 - Effective June 25, 1982.

Circular Distribution List

GPO 835-674

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[Circular No. 2505]

43 CFR Part 3300

Outer Continental Shelf Minerals and Rights-of-Way Management, General; Amendments to Streamline and Clarify Existing Provisions

Under the authority of the Outer Continental Shelf Lands Act, as amended (43 U.S.C. 1331 et seq.), Part 3300, Group 3300, Subchapter C, Chapter II of Title 43 of the Code of Federal Regulations is amended as set forth below.

PART 3300--OUTER CONTINENTAL SHELF MINERALS AND RIGHTS-OF-WAY MANAGEMENT; GENERAL

Note.—The information collection requirements contained in Part 3300 of Group 3300 have been approved by the Office of Management and Budget under 44 U.S.C. 3507 and assigned clearance number 1004–0071. The information is being collected if the applicant filing for a lease or right-of-way on the Outer Continental Shelf is qualified to hold such lease or right-of-way. This information will be used in making this determination. The obligation to respond is required to obtain a benefit.

1. Section 3300.2 is amended by:

(a) Revising paragraph (a) to read:

§ 3300.2 Information to States.

(a) The information covered in this section is prepared by or directly obtained by the Director. Such information is typically not considered to be proprietary or privileged, with the primary exception of specific indications of interest in an area by industry received in response to a Call for Information issued by the Secretary. All other proprietary and privileged information is obtained by or under the control of the Geological Survey and Minerals Management Service which are responsible for its release in accordance with their regulations (See 30 CFR Parts 250, 251 and 252); and

* * * * *

(b) Revising paragraph (d) to read:

* * * * *

(d) Upon request, the Director shall provide relative indications of interest in areas as well as any comments filed in response to a Call for Information for a proposed sale. However, no information transmitted shall identify any particular area with the name of any particular party so as not to compromise the competitive position of any participants in the process of indicating interest.

2. Section 3300.4 is revised to read:

§ 3300.4 Payment.

(a) Payment of the balance of the bonuses, including deferred bonuses, and the first year's rental shall be by a payment instrument, payable to the Bureau of Land Management, that shall make funds immediately available to the Department of the Treasury. Instruments which may be used in providing immediate availability include:

(1) Federal Reserve Checks which are instruments that originate at Federal Reserve Bank member banks and represent a charge against their Federal Reserve Bank reserve account. These checks are to be drawn on the Federal Reserve Bank or Branch in or serving the city in which the Bureau OCS field office conducting the particular lease sale is located. Cut-off times for presentation of the Federal Reserve Checks to the Bureau OCS field office and the required Federal Reserve Bank or Branch against which they shall be drawn shall be detailed at the time leases are transmitted to successful bidders for execution.

(2) Commercial Checks which are instruments drawn on a commercial bank located in the same city as the Federal Reserve Bank or Branch serving the city in which the Bureau OCS field office conducting the particular lease sale is situated. Cut-off times for presentation of commercial checks to the Bureau OCS field office shall be detailed as the leases are transmitted to successful bidders for execution. Presentation of commercial checks shall be made to the Bureau OCS field office not later than the 14th day after receipt of the lease by the successful bidder.

(b) Other payments, such as filing charges and fees, and annual rentals and costs for grants of pipeline rights-of-way shall be made to the Manager of the appropriate Bureau OCS field office by cash, check or bankdraft payable to the Bureau of Land Management unless otherwise directed by the Secretary.

(c) All other payments required by a lease or the regulations in this part shall be payable to the Minerals Management Service

3. The title of Subpart 3310 is revised to read:

Subpart 3310—Oil and Gas Leasing Program

§ 3310.2 [Amended]

4. Section 3310.2 is amended by:

(a) Revising the title of the section to read:

§ 3310.2 Review by State and local governments and other persons; and

(b) Amending paragraph (b) by inserting in the third sentence after the phrase "or local government" the phrase "or other persons".

5. Subpart 3313 is amended by revising the title to read:

Subpart 3313—Call for Information

6. Section 3313.1 is revised to read:

§ 3313.1 Information on areas.

(a) The Director may receive and consider indications of interest in areas for mineral leasing.

(b) In accordance with an approved program and schedule for the leasing of OCS lands which may contain oil and gas, the Director shall issue Calls for Information on areas for leasing of such minerals in specified areas. The Call for Information shall be published in the Federal Register and may be published in other publications as desirable. Information on areas shall be addressed to the Manager of the appropriate OCS office, with a copy to the appropriate Regional Minerals Manager of the Minerals Management Service and to any other office which may be specified in the Call. The Director shall also request comments on areas which should receive special concern and analysis. For an oil and gas lease sale Call area, the Director may request comments concerning geological conditions, including bottom hazards; archeological or cultural sites on the seabed or nearshore; multiple uses of the proposed leasing area, including navigation, recreation and fisheries; and other socioeconomic, biological and environmental information.

§ 3313.2 [Amended]

7. Section 3313.2 is amended by:

(a) Revising the title to read:

§ 3313.2 Areas near Coastal States.

* * * * *

(b) Revising paragraphs (a) and (b) to read:

* * * * *

(a) At the time information is solicited for leasing of areas within 3 geographical miles seaward of the seaward boundary of any coastal State, the Secretary shall provide the Governor of that State information required under section 8(g)(1) of the Act. The Director

Published in 47 F.R. 25967 June 16, 1982 - Effective July 16, 1982.

Circular Distribution List

shall furnish information identifying the areas for leasing as well as all relevant available environmental data for such areas (See 30 CFR 251.14).

(b) After receipt of information on areas within the area described in paragraph (a) of this section, the Secretary shall inform the Governor of those areas that are to be given further consideration for leasing. The Secretary shall enter into consultation with the Governor to determine whether the area may contain oil or gas pools or fields underlying both the OCS and lands subject to the jurisdiction of the State.

* * * * *

8. The title of Subpart 3314 is revised to read:

Subpart 3314—Area Identification and Tract Size.

9. Section 3314.1 is revised to read:

§ 3314.1 General.

(a) The Director, in consultation with the Director, Minerals Management Service and other appropriate Federal agencies, shall recommend to the Secretary areas identified for environmental analysis and consideration for leasing. The Director, on his/her own motion, in consultation with the Minerals Management Service, may include in the recommendation areas in which interest has not been indicated in response to a Call. In making a recommendation, the Director shall consider all available environmental information, multiple-use conflicts, resource potential, industry interest and other relevant information. Comments received from States and local governments and interested parties in response to Calls for Information shall be considered in making recommendations.

(b) The Director shall evaluate fully the potential effect of leasing on the human, marine and coastal environments, and develop measures to mitigate adverse impacts, including lease stipulations. The views and recommendations of Federal agencies, State agencies, local governments, organizations, industries and the general public shall be used as appropriate. The Director may hold public hearings on the environmental analysis after appropriate notice.

(c) In general, the Director shall seek to inform the public as soon as possible of additions or deletions that occur after the identification of areas.

10. Section 3314.2 is revised to read:

§ 3314.2 Tract size.

(a) A tract selected for oil and gas leasing shall consist of a compact area not exceeding 5,760 acres, unless the authorized officer finds that a larger area is necessary to comprise a reasonable economic production unit.

(b) The tract size for the leasing of other minerals shall be specified in the notice of sale.

§ 3315.1 [Amended]

11. Section 3315.1(a) is amended by inserting in the last sentence after the word "contained" the phrase "or referenced".

§ 3315.3 [Removed]

12. Section 3315.3 is removed in its entirety.

§ 3315.4 Redesignated as § 3315.3

13. Section 3315.4 is redesignated section 3315.3 and is amended by:

(a) Amending paragraph (a) by inserting in the last sentence after the word "contain" the phrase "or reference"; and

(b) Revising paragraph (b) to read:

* * * * *

(b) Tracts shall be offered for lease by competitive sealed bidding under conditions specified in the notice of lease sale and in accordance with all applicable laws and regulations. A suggested format for bidder submissions appears in Appendix A of this part.

* * * * *

§ 3316.3–2 [Amended]

14. Section 3316.3–2 is amended by:

(a) Amending paragraph (a) by removing the figure "541" and replacing it with the figure "621"; and

(b) Amending paragraphs (c) and (d) by removing the figure "3316.4(h)" and replacing it with the figure "3316.4(g)".

§ 3316.3–3 [Amended]

15. Sections 3316.3–3(e) (1) and (2) are amended by removing the figure "3316.4(h)" and replacing it with the figure "3316.4(g)".

§ 3316.3–4 [Amended]

16. Section 3316.3–4(b) is amended by removing the figure "3316.4(h)" and replacing it with the figure "3316.4(g)".

17. Section 3316.4 is amended by:

(a) Revising paragraphs (d) and (e) to read:

§ 3316.4 Submission of bids.

* * * * *

(d) If the bidder is an association (including a partnership), the bid shall be accompanied by a certified statement indicating the State in which it is registered and that it is authorized to hold mineral leases on the OCS, or appropriate reference to statements or records previously submitted to a Bureau OCS office (including material submitted in compliance with prior regulations).

(e) If the bidder is a corporation, the following information shall be submitted with the bid:

(1) A statement certified by the corporate Secretary or Assistant Secretary over the corporate seal showing the State in which it was incorporated and that it is authorized to hold mineral leases on the OCS, or appropriate reference to statements or records previously submitted to a Bureau OCS office (including material submitted in compliance with prior regulations).

(2) Evidence of authority of persons signing to bind the corporation, Such evidence may be in the form of either a certified copy of the minutes of the board of directors or of the bylaws indicating that the person signing has authority to do so; or a certificate to that effect signed by the Secretary or Assistant Secretary of the corporation over the corporate seal, or appropriate reference to statements or records previously submitted to a Bureau OCS office (including material submitted in compliance with prior regulations). Bidders are advised to keep their filings current.

(3) The bid shall be executed in conformance with corporate requirements.

* * * * *

(b) Removing paragraph (g) in its entirety.

(c) Redesignating paragraph (h) as paragraph (g) and amending it by removing the phrase "and paragraph (g) of this section"; and

(d) Redesignating paragraph (i) as paragraph (h).

18. Section 3316.5 is amended by:

(a) Revising paragraph (e) to read:

§ 3316.5 Award of leases.

* * * * *

(e)(1) The decision of the authorized officer on bids shall be the final action of the Department, subject only to reconsideration by the Secretary, pursuant to a written request, of the rejection of the high bid. The delegation of review authority to the Office of Hearings and Appeals shall not be applicable to decisions on high bids for leases on the Outer Continental Shelf. If the authorized officer fails to accept the highest valid bid for a lease within 90 days after the date on which bids are opened, all bids shall be considered rejected.

(2) Any high bidder whose bid is rejected by the authorized officer may, within 15 days of such rejection, file with the Secretary, with a copy to the authorized officer, a written request for reconsideration accompanied by a statement of reasons. The Secretary shall respond in writing either affirming or reversing the decision of the authorized officer.

* * * * *

(b) Amending paragraph (f) by revising the third sentence to read "Except as provided in § 3300.4(a)(2) of this title, the bidder shall, not later than the 15th day after receipt of the lease, execute the lease, pay the first year's rental, pay the balance of the bonus bid, unless deferred, and file a bond as required in § 3318.1 of this title."

19. Section 3316.6 is revised to read:

§ 3316.6 Lease form.

Oil and gas leases and leases for sulphur shall be issued on forms approved by the Director. Other mineral leases shall be issued on such forms as may be prescribed by the Secretary.

§ 3317.1 [Amended]

20. Section 3317.1 is amended by:

(a) Amending paragraph (a) by removing the word "fixed";

(b) Amending paragraph (b) by removing from the first sentence the word "fixed"; and

(c) Amending paragraph (e) by removing the word "fixed" in the two places it appears.

21. Section 3317.2 is amended by adding a new paragraph (c) to read:

§ 3317.2 Royalties.

* * * * *

(c) Royalties on other minerals shall be at the rate specified in the notice of sale.

22. Appendix A is revised to read:

Appendix A—Oil and Gas Cash Bonus Bid

The following bid is submitted for an oil and gas lease on the area of the Outer Continental Shelf specified below:

Tract No.*	Total amount bid	Amount per acre (or per hectare)	Amount of cash submitted with bid

*Or, if tract numbers are not used, Protraction Diagram or Leasing Map and block number.

Bidder qualification No.	Proportionate interest of company(s) submitting bid	Name and address of bidding company
—— Misc. No.	.....	

_____

Authorized Signatory's Name and Title.

Appendix B [Removed]

23. Appendix B is removed in its entirety.

James G. Watt,
Secretary of the Interior.
May 21, 1982.

[FR Doc. 82-16277 Filed 6-15-82; 8:45 am]

BILLING CODE 4310-84-M

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

43 CFR Part 19

[Circular No. 2506]

Wilderness Preservation; Removal of Provision Covering Wilderness Lands Administered by the Bureau of Land Management

Under the authority of section 605 of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 782) and the Classification and Multiple Use Act of 1964 (43 U.S.C. 1411–1418), Part 19, Subtitle A, of Title 43 of the Code of Federal Regulations is amended as set forth below.

Subpart B (§ 19.25) [Removed]

1. Part 19 is amended by removing Subpart B which consists of § 19.25, in its entirety.

Frank A. Dubois,
Acting Assistant Secretary of the Interior.
June 18, 1982.

[FR Doc. 82-18922 Filed 7-13-82; 8:45 am]

Published in 47 F.R. 30489, July 14, 1982 - Effective: August 13, 1982

Circular Distribution List

GPO 836-397

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[Circular No. 2507]

43 CFR Part 1810

Introduction and General Guidance; Public Land Records; Amending the Notation of the Public Land Records Procedures

Under the authority of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1701 et seq.), Subpart 1813, Part 1810, Group 1800, Subchapter A, Chapter II of Title 43 of the Code of Federal Regulations is amended as set forth below.

PART 1810—INTRODUCTION AND GENERAL GUIDANCE

1. Section 1813.1–1 is revised to read:

§ 1813.1–1 Notations to records.

(a) The authorized officer shall cause the proper notation to be made on the plats in order that the status of a tract may be readily ascertained by the person examining the plat.

(b) All withdrawals, reservations, classifications, designations, segregations and orders affecting the disposition of lands shall be noted on the tract books and plats.

(c) Use authorizations in excess of 1 year and other leases, easements and permits shall be noted on the tract books and plats upon issuance. Title transfers shall be noted upon issuance of patent.

July 2, 1982.

Frank A. DuBois,

Acting Assistant Secretary of the Interior.

[FR Doc. 82–20121 Filed 7–23–82; 8:45 am]

Published 47 F.R. 32129 July 26, 1982 - Effective Date August 25, 1982.

Circuular Distribution List

GPO 836 - 507

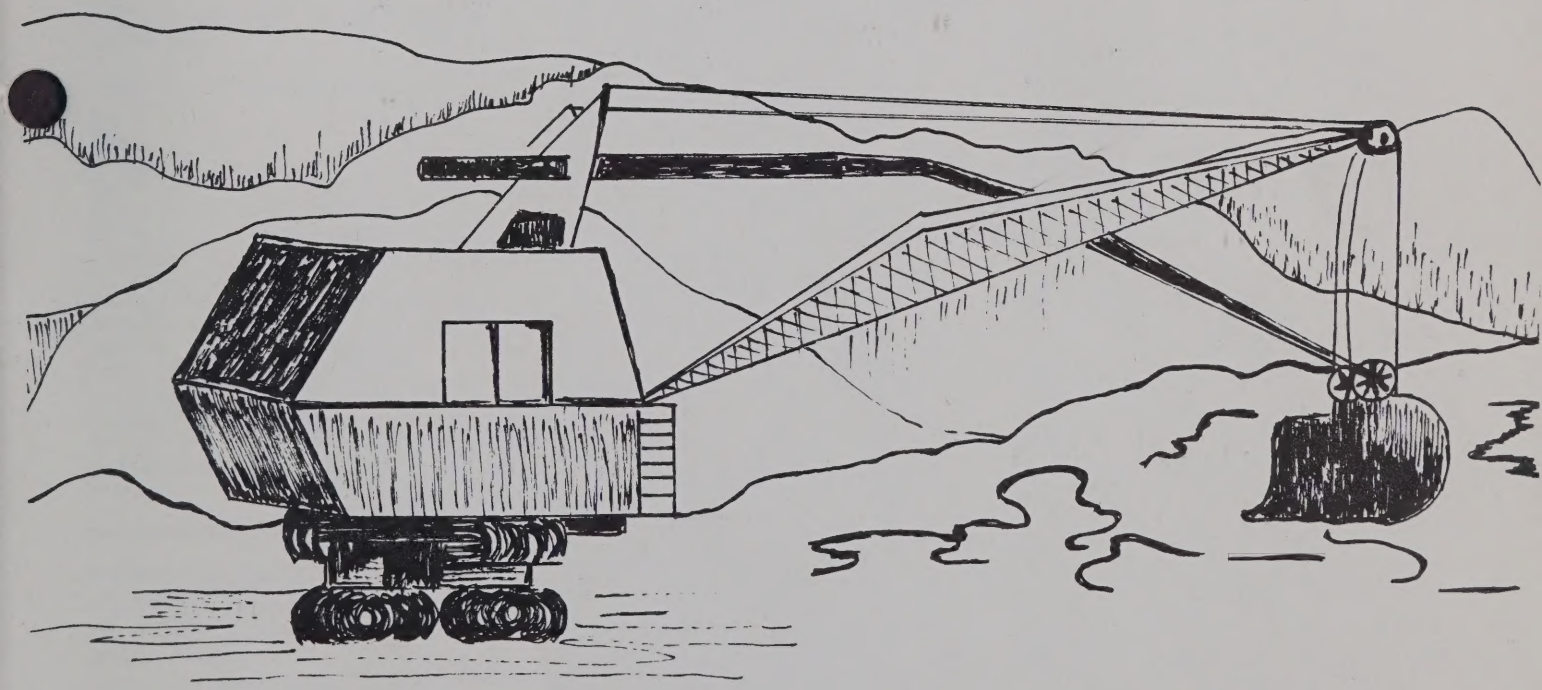
Circular No. 2508

REGULATIONS PERTAINING TO:

COAL MANAGEMENT

FEDERALLY OWNED COAL

43 CFR 3400



Bureau of Land Management
Library
Bldg. 50, Denver Federal Center
Denver, CO 80225

U.S. Department of the Interior Bureau of Land Management

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

43 CFR Parts 221, 3400, 3410, 3420, 3422, 3430, 3440, 3450, 3460, 3470,

Bureau of Land Management
Library
Bldg. 50, Denver Federal Center
Denver, CO 80225

[Circular No. 2508]

Coal Management; Federally Owned Coal; Amendments to Coal Management Program Regulations

Under the authority of the Mineral Leasing Act of 1920, as amended and supplemented (30 U.S.C. 181 et seq.), the Mineral Leasing Act for Acquired Lands, as amended (30 U.S.C. 351—359 et seq.), the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1701 et seq.), the Surface Mining Control and Reclamation Act (30 U.S.C. 1201 et seq.) and the Multiple Mineral Development Act (30 U.S.C. 521—531) Group 3400, Subchapter C, Chapter II, Title 43 of the Code of Federal Regulations is amended as set forth below.

1. The addition of a new Group 3400 and Part 3400 as follows:

Group 3400—Coal Management

PART 3400—COAL MANAGEMENT—GENERAL

Subpart 3400—Introduction—General

Sec.

3400.0–3 Authority.
3400.0–5 Definitions.
3400.1 Multiple development.
3400.2 Lands subject to leasing.
3400.3 Limitations on authority to lease.
3400.3–1 Consent or conditions of surface management agency.
3400.3–2 Department of Defense lands.
3400.3–3 Department of Agriculture lands.
3400.3–4 Trust protection lands.
3400.4 Federal/state government cooperation.

Authority: 30 U.S.C. 181 et seq.; 30 U.S.C. 351–359; 30 U.S.C. 521–531; 30 U.S.C. 1201 et seq.; 42 U.S.C. 7101 et seq.; and 43 U.S.C. 1701 et seq.

Subpart 3400—Introduction—General

§ 3400.0–3 Authority.

(a) These regulations are issued under the authority of and to implement provisions of:

(1) The Mineral Leasing Act of February 25, 1920, as amended (30 U.S.C. 181 et seq.).

(2) The Mineral Leasing Act for Acquired Lands of August 7, 1947, as amended (30 U.S.C. 351–359 et seq.).

§ 3400.0–5 Definitions.

As used in this part:

(a) "Alluvial valley floor" has the meaning set forth in 30 CFR Chapter VII.

(b) "Authorized officer" means any employee of the Bureau of Land Management delegated the authority to perform the duty described in the section in which the term is used.

(c) "Bonus" means that value in excess of the rentals and royalties that accrues to the United States because of coal resource ownership that is paid as part of the consideration for receiving a lease.

(d) "Bypass coal" means an isolated coal deposit that cannot, for the foreseeable future, be mined economically and in an environmentally sound manner either separately or as part of any mining operation other than that of the applicant for either an emergency lease under the provisions of section 3425.1–4 of this title or a lease modification.

(e) "Casual use" means activities which do not ordinarily lead to any appreciable disturbance or damage to lands, resources or improvements, for example, activities which do not involve use of heavy equipment or explosives and which do not involve vehicle movement except over already established roads and trails.

(f) "Certificate of bidding rights" means a right granted by the Secretary to apply the fair market value of a relinquished coal or other mineral lease as a credit against the bonus bid or bids on a competitive lease or leases acquired at a lease sale or sales, or as a credit against the payment required for a coal lease modification.

(g) "Coal deposits" mean all Federally-owned coal deposits, except those held in trust for Indians.

(h) "Department" means the United States Department of the Interior.

(i) "Director" means the Director of the Bureau of Land Management unless otherwise indicated.

(j) "Environmental assessment" means a document prepared by the responsible Federal agency consistent with 40 CFR 1508.9.

(k) "Exploration" has the meaning set forth in 30 CFR 211.2

(l) "Exploration license" means a license issued by the authorized officer to permit the licensee to explore for coal on unleased Federal lands.

(m) "Exploration plan" has the meaning set forth in 30 CFR 211.2

(n) "Fair market value" means that amount in cash, or on terms reasonably equivalent to cash, for which in all probability the coal deposit would be sold or leased by a knowledgeable owner willing but not obligated to sell or lease to a knowledgeable purchaser who desires but is not obligated to buy or lease.

(o) "Federal lands" mean lands owned by the United States, without reference to how the lands were acquired or what Federal agency administers the lands, including surface estate, mineral estate, and coal estate, but excluding lands held by the United States in trust for Indians, Aleuts or Eskimos.

(p) "Governmental entity" means a Federal or State agency or a political subdivision of a State, including a county or a municipality, or any corporation acting primarily as an agency or instrumentality of a State, which produces electrical energy for sale to the public.

(q) "Interest" in a lease, application or bid means: any record title interest, overriding royalty interest, working interest, operating rights or option, or any agreement covering such an interest; any claim or any prospective or future claim to an advantage or benefit from a lease; and any participation or any defined or undefined share in any increments, issues, or profits that may be derived from or that may accrue in any manner from the lease based on or pursuant to any agreement or understanding existing when the application was filed or entered into while the lease application or bid is pending. Stock ownership or stock control does not constitute an interest in a lease within the meaning of this definition. Attribution of acreage to stock ownership interests in leases is covered by § 3472.1–3(b) of this title.

(r) "Lease" means a Federal lease, issued under the coal leasing provisions of the mineral leasing laws, which grants the exclusive right to explore for and extract coal. In provisions of this group that also refer to Federal leases for minerals other than coal, the term "Federal coal lease" may apply.

(s) "Lease bond" means the bond or equivalent security given the Department to assure payment of all obligations under a lease exploration

Published in 47 F.R. 33114, July 30, 1982 - Effective August 30, 1982
Circular Distribution List

license, or license to mine, and to assure that all aspects of the mining operation other than reclamation operations under a permit on a lease are conducted in conformity with the approved mining or exploration plan. This is the same as the "Federal lease bond" referred to in 30 CFR 748.11(a).

(t) "Licensee" means the holder of an exploration license.

(u) "License to mine" means a license issued under the provisions of Part 3440 to mine coal for domestic use.

(v) "Logical Mining Unit" has the meaning set forth in 30 CFR 211.2.

(w) "Logical Mining Unit reserves" has the meaning set forth in the term "logical mining unit recoverable coal reserves" in 30 CFR 211.2.

(x) "Maximum economic recovery" has the meaning set forth in 30 CFR 211.2.

(y) "Mineral leasing laws" mean the Mineral Leasing Act of 1920, as amended (30 U.S.C. 181 et seq.), and the Mineral Leasing Act for Acquired Lands of 1947, as amended (30 U.S.C. 351–359).

(z) "Mining plan" means a resource recovery and protection plan as described in 30 CFR 211.2.

(aa) "Mining Supervisor" means the District Mining Supervisor, Minerals Management Service.

(bb) "Mining unit" means an area containing technically recoverable coal that will feasibly support a commercial mining operation. The coal may either be Federal coal or be both Federal and non-Federal coal.

(cc) "Operator" means a lessee, exploration licensee or one conducting operations on a lease or exploration license under the authority of the lessee or exploration licensee.

(dd) "Permit" has the meaning set forth in 30 CFR Chapter VII.

(ee) "Permit area" has the meaning set forth in 30 CFR Chapter VII.

(ff) "Public bodies" means Federal and state agencies; political subdivisions of a State, including counties and municipalities; rural electric cooperatives and similar organizations; and nonprofit corporations controlled by any such entities.

(gg) "Qualified surface owner" means the natural person or persons otherwise meeting the requirements of this section (or corporation, the majority stock of which is held by a person or persons otherwise meeting the requirements of this section.) who:

(1) Hold legal or equitable title to the surface of split estate lands;

(2) Have their principal place of residence on the land, or personally conduct farming or ranching operations upon a farm or ranch unit to be affected by surface mining operations; or receive directly a significant portion of their income, if any, from such farming and ranching operations; and

(3) Have met the conditions of paragraphs (1) and (2) of this subsection for a period of at least 3 years, except for persons who gave written consent less than 3 years after they met the requirements of both paragraphs (1) and (2) of this section. In computing the three year period the authorized officer shall include periods during which title was owned by a relative of such person by blood or marriage if, during such periods, the relative would have met the requirements of this subsection.

(hh) "Reserves" has the meaning set forth in the term "recoverable coal reserves" in 30 CFR 211.2.

(ii) "Secretary" means the Secretary of the Interior.

(jj) "Sole party in interest" means a party who is and will be vested with all legal and equitable rights under a lease, bid, or an application for a lease. No one is a sole party in interest with respect to a lease or bid in which any other party has any interest.

(kk) "Split estate" means land in which the ownership of the surface is held by persons, including governmental bodies, other than the Federal government and the ownership of underlying coal is, in whole or in part, reserved to the Federal government.

(ll) "Substantial legal and financial commitments" means significant investments that have been made on the basis of a long-term coal contract in power plants, railroads, coal handling and preparation, extraction or storage facilities and other capital intensive activities. Costs of acquiring the coal in place or of the right to mine it without an existing mine are not sufficient to constitute "substantial legal and financial commitments".

(mm) "Surface coal mining operations" means activities conducted on the surface of lands in connection with a surface coal mine or surface operations and surface impacts incident to an underground mine, as defined in section 701(28) of the Surface Mining Control and Reclamation Act (30 U.S.C. 1291(28)).

(nn) "Surface management agency" means the Federal agency with jurisdiction over the surface of Federally owned lands containing coal deposits, and, in the case of private surface over Federal coal, the Bureau of Land Management, except in areas designated as National Grasslands, where it means the Forest Service.

(oo) "Surface Mining Officer" means the regulatory authority as defined in 30 CFR Chapter VII.

(pp) "Valid existing rights" as used in section 3461.1 of this title is defined in 30 CFR 761.5.

(qq) "Written consent" means the document or documents that a qualified surface owner has signed that: (1) Permit a coal operator to enter and commence surface mining of coal; (2) describe any financial or other consideration given or promised in return for the permission, including in-kind considerations; (3) describe any consideration given in terms of type or method of operation or reclamation for the area; (4) contain any supplemental or related contracts between the surface owner and any other person who is a party to the permission; and (5) contain a full and accurate description of the area covered by the permission.

§ 3400.1 Multiple development.

(a) The granting of an exploration license, a license to mine or a lease for the exploration, development, or production of coal deposits shall preclude neither the issuance of prospecting permits or mineral leases for prospecting, development or production of deposits of other minerals in the same land with suitable stipulations for simultaneous operation, nor the allowance of applicable entries, locations, or selections of leased lands with a reservation of the mineral deposits to the United States.

(b) The presence of deposits of other minerals or the issuance of prospecting permits or mineral leases for prospecting, development or production of deposits of other minerals shall not preclude the granting of an exploration license, a license to mine or a lease for the exploration, development or production of coal deposits on the same lands with suitable stipulations for simultaneous operations.

§ 3400.2 **Lands subject to leasing.**

The Secretary may issue coal leases on all Federal lands except:

(a) Lands in:

(1) The National Park System;

(2) The National Wildlife Refuge System;

(3) The National Wilderness Preservation System;

(4) The National System of Trails;

(5) The National Wild and Scenic Rivers System, including study rivers designated under section 5(a) of the Wild and Scenic Rivers Act;

(6) Incorporated cities, towns, and villages;

(7) The Naval Petroleum Reserves, the National Petroleum Reserve in Alaska, and oil shale reserves; and

(8) National Recreation Areas designated by law;

(b) Tide lands, submerged coastal lands within the Continental Shelf adjacent or littoral to any part of land within the jurisdiction of the United States; and

(c) Land acquired by the United States for the development of mineral deposits, by foreclosure or otherwise for resale, or reported as surplus property pursuant to the provisions of the Surplus Property Act of 1944 (50 U.S.C. App. 1622).

§ 3400.3 Limitations on authority to lease.

§ 3400.3–1 Consent or conditions of surface management agency.

Leases for land, the surface of which is under the jurisdiction of any Federal agency other than the Department of the Interior, may be issued only with the consent of the head or other appropriate official of the other agency having jurisdiction over the lands containing the coal deposits, and subject to such conditions as that officer may prescribe to insure the use and protection of the lands for the primary purpose for which they were acquired or are being administered.

§ 3400.3–2 Department of Defense lands.

The Secretary may issue leases with the consent of the Secretary of Defense on acquired lands set apart for military or naval purposes only if the leases are issued to a governmental entity which:

(a) Produces electrical energy for sale to the public;

(b) Is located in the state in which the leased lands are located; and

(c) Has production facilities in that state, and will use the coal produced from the lease within that state.

§ 3400.3–3 Department of Agriculture lands.

Subject to the provisions of § 3400.3–1, the Secretary may issue leases that authorize surface coal mining operations on Federal lands within the National Forest System, provided that such leases may not be issued on lands within a national forest unless the tract is assessed to be acceptable for all or certain stipulated methods of surface coal mining operations under the provisions of Criterion No. 1 in § 3461.1 of this title.

§ 3400.3–4 Trust protection lands.

The regulations in this group do not apply to the leasing and development of coal deposits held in trust by the United States for Indians. See 43 CFR 3400.0–5(o). Regulations governing those deposits are found in 25 CFR Chapter I.

§ 3400.4 Federal/state government cooperation.

(a) In order to implement the requirements of law for Federal-state cooperation in the management of Federal lands, a Department-state regional coal team shall be established for each coal production region defined pursuant to § 3400.0–5. The team shall consist of a Bureau of Land Management field representative for each state in the region, who will be the Bureau of Land Management State Director, or, in his absence, his designated representative; the Governor of each State included in the region or, in his absence, his designated representative; and a representative appointed by and responsible to the Director of the Bureau of Land Management. The Director's representative shall be chairperson of the team. If the region is a multi-state region under the jurisdiction of only one Bureau of Land Management State Office, the State Director shall designate a Bureau of Land Management Representative for each state.

(b) Each regional coal team shall guide all phases of the coal activity planning process described in § § 3420.3 through 3420.3–4 of this title which relate to competitive leasing in the region.

(c) The regional coal team shall also serve as the forum for Department/State consultation and cooperation in all other major Department coal management program decisions in the region, including preference right lease applications, public body and small business setaside leasing, emergency leasing and exchanges.

(d) Additional representatives of state and Federal agencies may participate directly in team meetings or indirectly in the preparation of material to assist the team at any time at the request of the team chairperson. Participation may be solicited from state and Federal agencies with special expertise in topics considered by the team or with direct surface management responsibilities in areas potentially affected by coal management decisions. However, at every point in the deliberations, the official team spokespersons for the Bureau of Land Management and for the Governors shall be those designated under paragraph (a) of this section.

(e) If a state declines to participate under this section in the coal-related activities of the Department:

(1) the Department may take action authorized in Group 3400 of this title in a coal production region wholly within such a state without forming a regional coal team, and

(2) the Department may form a regional coal team without a representative of the Governor of such a state in any multi-state coal production region.

(f) The regional coal team shall function under the general provisions of the cooperative procedures of subpart 1784 of this title.

§ 3400.5 Coal production regions.

The Bureau of Land Management shall establish by publication in the Federal Register coal production regions. A coal production region may be changed or its boundaries altered by publication of a notice of change in the Federal Register. Coal production regions shall be used for establishing regional leasing levels under § 3420.2 of this title. Coal production regions shall be used to establish areas in which leasing shall be conducted under § 3420.3 of this title and for other purposes of the coal management program.

PART 3410 – EXPLORATION LICENSES

Subpart 3410 – Exploration Licenses

Sec.

3410.0–1 Purpose
3410.0–2 Objective
3410.0–3 Authority
3410.1 Exploration licenses—Generally.
3410.1–1 Lands subject to exploration licenses.
3410.1–2 When an exploration license is required.
3410.2 Prelicensing procedures.
3410.2–1 Application for an exploration license.
3410.2–2 Environmental analysis.
3410.2–3 Surface management agency.
3410.3 Exploration licenses.
3410.3–1 Issuance and termination of an exploration license.
3410.3–2 Limitations on exploration licenses.
3410.3–3 Operating regulations.
3410.3–5 Bonds.
3410.4 Collection and submission of data.
3410.5 Use of surface.

Authority: 30 U.S.C. 181 et seq.

Subpart 3410—Exploration Licenses

§ 3410.0–1 Purpose.

This subpart provides for the issuance of licenses to explore for coal deposits subject to disposal under Group 3400.

§ 3410.0–2 Objective.

The objective of this subpart is to allow private parties singularly or jointly to explore coal deposits to obtain geological, environmental, and other pertinent data concerning the coal deposits.

§ 3410.0–3 Authority.

(a) These regulations are issued under the authority of the statutes listed in § 3400.0–3 of this title.

(b) These regulations primarily implement section 2(b) of the Mineral Leasing Act of 1920, as amended by section 4 of the Federal Coal Leasing Amendments Act of 1976 (30 U.S.C. 201(b)).

§ 3410.1 Exploration licenses—Generally.

§ 3410.1–1 Lands subject to exploration licenses.

(a) Exploration licenses may be issued for:

(1) Lands administered by the Secretary that are subject to leasing, § 3400.2;

(2) Lands administered by the Secretary of Agriculture through the Forest Service or other agency that are subject to leasing, § 3400.2;

(3) Lands which have been conveyed by the United States subject to a

reservation to the United States of the mineral or coal deposits, to the extent that those deposits are subject to leasing under § 3400.2; and

(4) Acquired lands set apart for military or naval purposes.

(b) No exploration license shall be issued for lands included in an existing coal lease.

§ 3410.1-2 When an exploration license is required.

(a) No person may conduct exploration activities for commercial purposes, including sale of data acquired during exploration, on lands subject to this subpart without an exploration license.

(b) An exploration license shall not be required for casual use.

(c) Exploration activities conducted without an exploration license in violation of this section shall constitute a trespass, and shall be subject to the provisions of 43 CFR 9239.5-3(f).

§ 3410.2 Prelicensing procedures.

§ 3410.2-1 Application for an exploration license.

(a) Exploration license applications shall be submitted at the Bureau of Land Management State Office having jurisdiction over the lands covered in the application (43 CFR Subpart 1821). The applications shall be subject to the following requirements:

(1) No specified form of application is required.

(2) An area in a public land survey state for which an application is filed shall be described by legal description or, if on unsurveyed lands, by metes and bounds, in accordance with § 3471.1-1(d)(1) of this title. An application for an exploration license on acquired lands shall describe the area according to the description in the deed or document by which the United States acquired title in accordance with § 3471.1-1(d)(2) of this title.

(3) Each application shall contain three copies of an exploration plan which complies with the requirements of 30 CFR 211.10(a).

(4) Each application and its supporting documents shall be filed with a nonrefundable filing fee (43 CFR 3473.2).

(5) Exploration license applications shall normally cover no more than 25,000 acres in a reasonably compact area and entirely within one state. An application for an exploration license covering more than 25,000 acres must include a justification for an exception to the normal acreage limitation.

(b) Nothing in this subpart shall preclude the authorized officer from issuing a call for expressions of leasing interest in an area containing exploration licenses or applications for exploration licenses.

(c) Applicants for exploration licenses shall be required to provide an opportunity for other parties to participate in exploration under the license on a pro rata cost sharing basis.

(1) Immediately upon the filing of an application for an exploration license the applicant shall publish a "Notice of Invitation," approved by the authorized officer, once every week for 2 consecutive weeks in at least one newspaper of general circulation in the area where the lands covered by the license application are situated. This notice shall contain an invitation to the public to participate in the exploration under the license. Copies of the Notice of Invitation shall be filed with the authorized officer at the time of publication by the applicant, for posting in the proper Bureau of Land Management Office and for Bureau of Land Management's publication of the Notice of Inviation in the Federal Register, and shall contain the location of the Minerals Management Service and Bureau of Land Management offices in which the application shall be available for inspection.

(2) Any person who seeks to participate in the exploration program contained in the application shall notify the authorized officer and the applicant in writing within 30 days after the publication in the Federal Register. The authorized officer may require modification of the original exploration plan to accommodate the legitimate exploration needs of persons seeking to participate, and to avoid the duplication of exploration activities in the same area, or may notify the person seeking to participate that the person should file a separate application for an exploration license.

(d) An application to conduct exploration which could have been conducted as a part of exploration under an existing or recent coal exploration license may be rejected.

§ 3410.2-2 Environmental analysis.

(a) Before an exploration license may be issued the authorized officer, in coordination with the Minerals Management Service, shall prepare an environmental assessment or environmental impact statement, if necessary, of the potential effects of the proposed exploration on the natural and socio-economic environment of the affected area. No exploration license shall be issued if the exploration would:

(1) result in disturbance that would cause significant and lasting degradation to the lands or injury to improvements, or in any disturbance other than that necessary to determine the nature of the overlying strata and the depth, thickness, shape, grade, quantity, quality, or hydrologic conditions of the coal deposits; or

(2) jeopardize the continued existence of a threatened or endangered species of fauna or flora or destroy or cause adverse modification to its critical habitat. No exploration license shall be issued until after compliance with sections 105 and 106 of the National Historic Preservation Act (16 U.S.C. 470(f)) with respect to any cultural resources which might be affected by any activity under the exploration license.

(b) The authorized officer shall include in each exploration license requirements and stipulations to protect the environment and associated natural resources and to ensure reclamation of the lands disturbed by the exploration.

§ 3410.2-3 **Surface management agency.**

The authorized officer may issue an exploration license covering lands the surface of which is under the jurisdiction of any Federal agency other than the Bureau of Land Management only in accordance with those conditions prescribed by the surface management agency concerning the use and protection of the nonmineral interests in those lands.

§ 3410.3 Exploration licenses.

§ 3410.3-1 Issuance and termination of an exploration license.

(a) The authorized officer has the discretion to issue an exploration license or to reject the application therefor under this subpart.

(b) An exploration license shall become effective on the date specified by the authorized officer as the date when exploration activities may begin. An exploration license shall not be valid for more than two years from its effective date.

(c) The exploration plan approved by Minerals Management Service shall be attached and made a part of each exploration license.

(d) Subject to the continued obligation of the licensee and the surety company to comply with the terms and conditions of the exploration license, the exploration plan, and the regulations, a licensee may relinquish an exploration license for all or any portion of the lands covered by it. A relinquishment shall be filed in the Bureau of Land Management State Office in which the original application was filed. See 43 CFR Subpart 1821.

(e) An exploration license may be cancelled by the authorized officer for noncompliance with its terms and conditions, the exploration plan, or the regulations, after the authorized officer has notified the licensee of the violation(s) in writing and the licensee has failed to correct the violation(s) within the period prescribed in the notice.

(f) Should a licensee request a modification to the exploration plan, the Mining Supervisor may approve the modification if geologic or other conditions warrant.

(g) When unforeseen conditions that could result in substantial disturbance to the natural land surface or damage to the environment or improvements are encountered, or when geologic or other physical conditions warrant a modification in the approved exploration

plan:

(1) The authorized officer may adjust the terms and conditions of the exploration license, or

(2) The Mining Supervisor may direct adjustment in or approve modification of the exploration plan. If the licensee does not concur in the adjustment of the terms and conditions of the exploration license and exploration plan, he/she may, under 43 CFR Part 4, appeal the decision modifying the license, or he/she may relinquish the exploration license.

(h) Exploration licenses shall not be extended. Exploration operations may not be conducted after the exploration license has expired. The licensee may apply for a new exploration license as described in this section. A new exploration license may be issued simultaneously with the termination of the existing exploration license.

§ 3410.3–2 Limitations on exploration licenses.

The issuance of exploration licenses for an area shall not preclude the issuance of a Federal coal lease under applicable regulations for that area. If such a lease is issued for lands included in an exploration license, the authorized officer shall cancel the exploration license on the effective date of the lease for those lands which are common to both.

§ 3410.3–3 Operating regulations.

The licensee shall comply with the provisions of the operating regulations of the Minerals Management Service (30 CFR Part 211). Copies of the operating regulations may be obtained from the Mining Supervisor. Authorized representatives of the Secretary and, where appropriate the surface management agency shall be permitted to inspect the premises and operations. The licensee shall allow the free ingress and egress of Government officers and other persons using the land under authority of the United States.

§ 3410.3–4 Bonds.

(a) Bonding provisions in subpart 3474 of this chapter apply to this subpart.

(b) Prior to issuing an exploration license, the authorized officer, after consultation with the Mining Supervisor shall assure that the amount of the bond to be furnished is sufficient:

(1) to assure compliance with the terms and conditions of the explorations license. In no event shall the amount of such bond be less than $5,000.; and

(2) in the absence of an agreement between the exploration licensee and the surface owner so providing, to assure compensation for damages to surface improvements made by surface owners where an exploration license embraces such lands.

(c) Upon completion of exploration and reclamation activities that are in compliance with the terms and conditions of the exploration license, the exploration plan and the regulations, or upon discontinuance of exploration operations and completion of needed reclamation to the satisfaction of the authorized officer, and where appropriate, the surface management agency, the authorized officer shall, with the concurrence of the Mining Supervisor, terminate the period of liability of the bond.

§ 3410.4 Collection and submission of data.

(a) The authorized officer may require the applicant to collect ground and surface water data that are available to the licensee in the conduct of the approved exploration plan.

(b) The licensee shall furnish the Mining Supervisor copies of all data (including, but not limited to, geological, geophysical and core drilling analyses) obtained during exploration in a form requested by the Mining Supervisor. All data shall be considered confidental and not made public until the areas involved have been leased or until the Mining Supervisor determines that public access to the data would not damage the competitive position of the licensee, whichever comes first. (30 CFR 211.6, 43 CFR 2.20)

§ 3410.5 Use of surface.

(a) Operations under these regulations shall not unreasonably interfere with or endanger operations authorized under any other Act or regulation.

(b) The licensee shall comply with all applicable Federal, state and local laws and regulations.

PART 3420 – COMPETITIVE LEASING

Subpart 3420 – Competitive Leasing

Sec.

3420.0–1 Purpose
3420.0–2 Objectives
3420.0–3 Authority
3420.1 Procedures
3420.1–1 Lands subject to evaluation for leasing.
3420.1–2 Call for Coal Resource Information.
3420.1–3 Special leasing opportunities.
3420.1–4 General requirements for land use planning.
3420.1–5 Hearing requirements.
3420.1–6 Consulation with Federal surface management agencies.
3420.1–7 Consultation with states and Indian tribes.
3420.1–8 Identification of lands as acceptable for further consideration.
3420.2 Regional leasing levels.
3420.3 Activity planning – The leasing process.
3420.3–1 Area identification process.
3420.3–2 Expressions of leasing interest.
3420.3–3 Preliminary tract delineation.
3420.3–4 Regional tract ranking, selection, environmental analysis, and scheduling.
3420.4 Final consultations.
3420.4–1 Timing of consultation.
3420.4–2 Consultation with surface management agencies.
3420.4–3 Consultation with Governors.
3420.4–4 Consultation with Indian tribes.
3420.4–5 Consultation with Attorney General.
3420.5 Adoption of final regional lease sale schedule.
3420.5–1 Announcement.
3420.5–2 Revision.

Subpart 3422 – Lease Sales

3422.1 Fair market value and maximum economic recovery.
3422.2 Notice of sale and detailed statement.
3422.3 Sale procedures.
3422.3–1 Bidding systems.
3422.3–2 Conduct of sale.
3422.3–3 Unsurveyed lands.
3422.3–4 Consultation with the Attorney General.
3422.4 Award of lease.

Subpart 3425 – Leasing on Application

3425.0–1 Purpose.
3425.0–2 Objective.
3425.1 Application for lease.
3425.1–1 Where filed.
3425.1–2 Contents of application.
3425.1–3 Qualifications of the applicant.
3425.1–4 Emergency leasing.
3425.1–5 Leasing outside coal production regions.
3425.1–6 Hardship leases.
3425.1–7 Preliminary data.
3425.1–8 Rejection of applications.
3425.1–9 Modification of application area.
3425.2 Land use plans.
3425.3 Environmental analysis.
3425.4 Consultation and sale procedures.
3425.5 Lease terms.

Subpart 3427 – Split Estate Leasing

3427.0–1 Purpose.
3427.0–3 Authority.
3427.0–7 Scope.
3427.1 Deposits subject to consent.
3427.2 Procedures.
3427.3 Validation of information.
3427.4 Pre-existing consents.
3427.5 Unqualified surface owners.

Authority: 30 U.S.C. 181 et seq.; 30 U.S.C. 351–359; 30 U.S.C. 521–531; 30 U.S.C. 1201 et seq.; 42 U.S.C. 7101 et seq.; 43 U.S.C. 1701 et seq.; and 15 U.S.C. 631–644.

Subpart 3420—Competitive Leasing

§ 3420.0–1 Purpose.

This subpart sets forth how the Department will conduct competitive leasing of rights to extract Federal coal.

§ 3420.0–2 Objectives.

The objectives of these regulations are to establish policies and procedures for considering development of coal deposits through a leasing system involving land use planning and environmental assessment or environmental impact statement processes; to promote the timely and orderly development of publicly owned coal resources; to ensure that coal deposits are leased at their fair market value; and to ensure that coal deposits are developed in consultation, cooperation, and coordination with the public, state and local governments, Indian tribes and involved Federal agencies.

§ 3420.0–3 Authority.

(a) The regulations in this part are issued under the authority of the statutes cited in § 3400.0–3 of this title.

(b) The regulations in this Part implement: (1) primarily section 2(a) of the Mineral Leasing Act of 1920, as amended by Sections 2 and 3 of the

Federal Coal Leasing Amendments Act of 1976 (30 U.S.C. 201(a)); and (2) the Small Business Act of 1953, as amended (15 U.S.C. 631 et seq.).

§ 3420.1 Procedures.

§ 3420.1–1 Lands subject to evaluation for leasing.

All lands subject to coal leasing under the mineral leasing laws are subject to evaluation under this subpart (43 CFR 3400.2).

§ 3420.1–2 Call for coal resource information.

(a) Prior to or as part of the initiation or update of a land use plan or land use analysis, a Call for Coal Resource Information shall be made to formally solicit indications of interest and information on coal resource development potential for lands in the planning unit. Industry, State and local governments and the general public may submit information on lands that should be considered for coal leasing, including statements describing why the lands should be considered for leasing.

(b) Proprietary data marked as confidential may be submitted in response to the Call for Coal Resource Information, however, all such proprietary data shall be submitted to the Minerals Management Service only. Data marked as confidential shall be treated in accordance with the laws and regulations governing the confidentiality of such information.

(c) The Call for Coal Resource Information may be combined with the notice of intent to conduct land use planning published in accordance with § 1601.3(g) of this title or with the issue identification process in accordance with Part 1600 of this title. If the agency conducting land use planning is other than the Bureau of Land Management, that agency may combine the Call for Coal Resource Information with its land use planning process at the appropriate step.

§ 3420.1–3 Special leasing opportunities.

(a) The Secretary shall, under the procedures established in this subpart, including §3420.3 of this title, reserve and offer a reasonable number of lease tracts through competitive lease sales open only to a restricted class of potential bidders. Except for the limitation on bidding contained in paragraph (b) of this section, all requirements in this subpart apply equally to special leasing opportunities, including the requirement that coal be leased at its fair market value.

(b) Special leasing opportunities shall be provided for two classes of potential lessees:

(1) Public bodies.

(i) Only public bodies with a definite plan for producing energy for their own use or for their members or customers shall bid for leases designated as special leasing opportunities for public bodies. To qualify as a definite plan, a plan must clearly state the intended use of the coal and have been approved by the governing board of the public body submitting the plan. In the event an electric generating station which will produce energy for the public body is either jointly owned with or participated in by others, or both, the definite plan shall assure that the public body's proportionate part of the energy produced is utilized pursuant to this paragraph.

(ii) Each public body shall submit the information specified in § 3472.2–5 (a)(1) and (2) of this title, as part of its expression of leasing interest or upon submission of a bid if no expression of leasing interest is made. The information specified in §3472.2–5(a) (3) and (4) of this title shall be submitted within 60 days after submission of an expression of leasing interest or lease bid if no expression of leasing interest is made.

(iii) The Secretary may designate, during the process of preparing a regional lease sale schedule, certain coal lease tracts for special leasing opportunities for public bodies only if a public body has submitted an expression of leasing interest under §3420.3–2, requesting that the procedures of this section apply.

(iv) Leases issued under this section to public bodies may be assigned only to other public bodies, or to a person who will mine the coal on behalf of and for the use of the public body, or to a person for the limited purpose of creating a security interest in favor of a lender who agrees to be obligated to mine the coal on behalf of the public body.

(2) Small businesses.

(i) When necessary to comply with the requirements of the Small Business Act, the Secretary shall designate a reasonable number of tracts for special leasing opportunities for businesses qualifying under 13 CFR Part 121.

(ii) Leases issued under this section may be assigned only to other small businesses qualifying under 13 CFR Part 121.

(c) Potential lessees qualifying for special leasing opportunities may participate in competitive lease sales not designated as special leasing opportunities and shall not be required to submit the evidence and information required specifically for a special leasing opportunity to participate.

§ 3420.1–4 General requirements for land use planning.

(a) The Secretary may not hold a lease sale under this part unless the lands containing the coal deposits have been included in a comprehensive land use plan or land use analysis and unless the sale is compatible with, and subject to, any relevant stipulations, guidelines and standards set out in that plan or analysis.

(b)(1) The Bureau of Land Management shall prepare comprehensive land use plans and land use analyses for lands it administers in conformance with 43 CFR Part 1600.

(2) The Department of Agriculture or any other Federal agency with surface management authority over lands subject to leasing shall prepare comprehensive land use plans or land use analyses for lands it administers.

(3) The Secretary may lease in any area where it is found either that there is no Federal interest in the surface or that the coal deposits in an area are insufficient to justify the costs of a Federal land use plan upon completion of a land use analysis in accordance with 43 CFR Part 1600.

(c) In an area of Federal lands not covered by a completed comprehensive land use plan or scheduled for comprehensive land use planning, a member of the public may request the appropriate Bureau of Land Management State Office to prepare a land use analysis for coal related uses of the land as provided for in this group.

(d) A comprehensive land use plan or land use analysis shall contain an estimate of the amount of coal recoverable by either surface or underground mining operations or both.

(e) The major land use planning decision concerning the coal resource shall be the identification of areas acceptable for further consideration for leasing which shall be identified by the screening procedures listed below:

(1) Only those areas that have development potential may be identified as acceptable for further consideration for leasing. The Minerals Management Service shall estimate coal development potential for the surface management agency. Coal companies, State and local governments and the general public are encouraged to submit information to the Minerals Management Service at any time in connection with such development potential determinations. Coal companies, State and local governments, and members of the general public may also submit nonconfidential coal geology and economic data during the inventory phase of planning to the surface management agency conducting the land use planning. Where such information is determined to indicate development potential for an area, the area may be included in the land use planning for evaluation for coal leasing.

(2) The Bureau of Land Management or the surface managing agency conducting the land use planning shall, using the unsuitability criteria and procedures set out in Subpart 3461 of this title, review Federal lands to assess where there are areas unsuitable for all or certain stipulated methods of mining. The unsuitability assessment shall be consistent with any decision of the Office of Surface Mining Reclamation and Enforcement to designate lands unsuitable or to terminate a designation in response to a petition.

(3) Multiple land use decisions shall be made which may eliminate additional coal deposits from further consideration for leasing to protect other resource values of a locally important or unique nature not included in the unsuitability criteria discussed in paragraph (e) of this section.

(4)(i) While preparing a comprehensive land use plan or land use analysis, the Bureau of Land Management shall consult with all surface owners who meet the criteria in paragraphs (gg)(1) and (2) of § 3400.0–5 of this title, and whose lands overlie coal deposits, to determine preference for or against mining by other than underground mining techniques.

(ii) For the purposes of this paragraph, any surface owner who has previously granted written consent to any party to mine by other than underground mining techniques shall be deemed to have expressed a preference in favor of

mining. Where a significant number of surface owners in an area have expressed a preference against mining those deposits by other than underground mining techniques, that area shall be considered acceptable for further consideration only for development by underground mining techniques. In addition, the area may be considered acceptable for further consideration for leasing for development by other than underground techniques if there are no acceptable alternative areas available to meet the regional leasing levels.

(iii) An area eliminated from further consideration by this subsection may be considered acceptable for further consideration for leasing for mining by other than underground mining techniques if:

(A) The number of surface owners who have expressed their preference against mining by other than underground techniques is reduced below a significant number because such surface owners have given written consent for such mining or have transferred ownership to unqualified surface owners; and

(B) The land use plan is amended accordingly.

§ 3420.1–5 Hearing requirements.

After public notice, the Bureau of Land Management or other surface management agency shall conduct a public hearing on the proposed comprehensive land use plan or land use analysis if it involves the potential for coal leasing before it is adopted if such a hearing is requested by any person who is or may be adversely affected by the adoption of the plan. A hearing conducted under part 1600 of this title of this chapter shall fulfill this requirement.

§ 3420.1–6 Consultation with Federal surface management agencies.

Where a Federal surface management agency other than the Bureau of Land Management administers limited areas overlying Federal coal within the boundaries of a comprehensive land use plan or land use analysis being prepared by the Bureau of Land Management, the Bureau of Land Management shall consult with the other agency to obtain its recommendations as to the acceptability for further consideration for leasing of the land the other agency administers.

§ 3420.1–7 Consultation with States and Indian tribes.

Before adopting a comprehensive land use plan or land use analysis that makes an assessment of lands acceptable for further consideration for leasing, the Bureau of Land Management or other surface management agency shall consult with the state Governor and the state agency charged with the responsibility for maintaining the state's unsuitability program (43 CFR 3461.4–1). Where a tribal government administers areas within or near the boundaries of a comprehensive land use plan or land use analysis being prepared by the Bureau of Land Management, the Bureau shall consult with the tribal government.

§ 3420.1–8 Identification of lands as acceptable for further consideration.

Identification of lands as acceptable for further consideration for leasing will be made in the adoption of a comprehensive land use plan or land use analysis. Any lands identified as acceptable may be further considered for leasing under § 3420.3 of this title.

§ 3420.2 Regional leasing levels.

This section sets out the process to be followed in establishing regional leasing levels. Regional leasing levels shall be established by the Secretary. The Secretary shall particularly rely upon the advice and assistance of affected State Governors in ensuring that leasing levels have properly considered social, environmental and economic impacts and constraints.

(a) The regional coal teams shall be the forum through which initial leasing level recommendations are transmitted to the Secretary. Initial leasing level recommendations shall be developed as follows:

(1) The appropriate Bureau of Land Management State Director on the regional coal team, as designated by the regional coal team chairperson, shall prepare a broadly stated range of initial leasing levels for the region. This range of initial leasing levels shall be based on information available to the State Director, including land use planning data, the results of the call for coal resource information held under § 3420.1–2 of this title, the results of the call for expressions of leasing interest held under § 3420.3–2 of this title and other pertinent factors;

(2) This initial range of leasing levels shall be made available to the other members of the regional coal team for review and comment. This review shall be designed to ensure consideration of relevant social, environmental and economic factors of which the Secretary should be aware in setting leasing levels;

(3) Governors of affected States shall be requested by the regional coal team chairperson to provide comments and recommendations concerning the leasing levels through the Governor's representatives on the regional coal team. Governors may use any methodologies, systems or procedures available to determine their recommendations;

(4) The regional coal team chairperson shall call upon the team members to present their findings and recommendations on the initial leasing levels. The chairperson shall refer the members' recommendations to an appropriate Bureau State Director serving on the team. The State Director shall: (i) Ensure the recommendations are in an appropriate format; (ii) add any additional information from the Bureau of Land Management and the Minerals Management Service data sources which may be available and pertinent to leasing level decisionmaking; (iii) address any questions and clarify any issues raised by the members' recommendations; and (iv) outline any additional alternative leasing levels. The regional coal team shall consider the State Director's review and shall transmit to the Secretary alternative leasing levels presented in ranges of tons to be offered for lease. All Governor's comments and recommendations shall also be transmitted to the Secretary, without change, as a part of the team transmittal; and

(5) The regional coal team transmittal to the Secretary shall be made through the Director, who may provide additional data and recommendations, but only as separate documentation.

(b) The Secretary, upon receipt of the regional coal team transmittal, shall initiate consultations, in writing, with the Secretary of Energy, the Attorney General and affected Indian tribes. The Secretary shall establish leasing levels by region for the purposes of approximating the amount of coal to be offered through proposed lease sale schedules after consideration of potential policy conflicts or problems concerning, but not limited to:

(1) The Department's responsibility for the management, regulation and conservation of natural resources; and

(2) The capabilities of Federal lands and Federal coal resources to meet the proposed leasing levels, and the contributions State and privately owned coal lands can make.

(c) Leasing levels shall be based on the following factors:

(1) Advice from Governors of affected States as expressed through the regional coal team;

(2) The potential economic, social and environmental effects of coal leasing on the region, including recommendations from affected Indian tribes;

(3) Expressed industry interest in coal development in the region and indications of the demand for coal reserves;

(4) Expressed interests for special opportunity sales;

(5) Expected production from existing Federal coal leases and non-Federal coal holdings;

(6) The level of competition within the region and recommendations from the Department of Justice;

(7) U.S. coal production goals and projections of future demand for Federal coal;

(8) Consideration of national energy needs; and

(9) Other pertinent factors.

(d) Prior to determining a final leasing level, the Secretary shall consult with the Governors of affected States to obtain final comments and recommendations. The Secretary shall then establish a final leasing level for the proposed coal lease sale.

(e) The levels shall be established for each coal production region where activity planning is conducted under the provisions of § 3420.3 of this title. The levels shall be developed separately for each region, but levels for 2 or more regions may be developed at the same time as the Secretary deems appropriate. Leasing levels may be stated in terms of a range of values.

(f) The leasing levels established for any given region shall become the basis

for the proposed action for study in the regional coal lease sale environmental impact statement prepared pursuant to § 3420.3–4 of this title. The Secretary's final decision on which coal lease tracts, if any, within a region to offer for sale, and the schedule for the offering of such tracts shall not be constrained by the established leasing levels; but rather shall be based on all information at the Secretary's disposal at the time of the decision.

§ 3420.3 Activity planning – The leasing process.

§ 3420.3–1 Area identification process.

(a) This section describes the process for identifying, ranking, analyzing, selecting, and scheduling lease tracts after land use planning has been completed. This process constitutes the "activity planning" aspect of the coal management program. Activity planning may occur where areas acceptable for further consideration for leasing have been identified by land use planning completed consistent with the provisions of § 3420.1–4 of this title.

(b) Split estate land otherwise acceptable for further consideration for leasing shall, upon verification of a refusal to consent received from a qualified surface owner under §3427.2 of this title, be deleted from further activity planning.

(c) Each regional coal team established under § 3400.4 of this title shall:

(1) Guide tract delineation and preparation of site specific analyses of delineated tracts;

(2) Rank delineated tracts, select tracts that meet the leasing level established by the Secretary, and identify all alternative tract combinations to be analyzed in the regional lease sale environmental impact statement;

(3) Guide the preparation of the regional lease sale environmental impact statement; and

(4) Recommend a regional coal lease sale schedule to the Director.

§ 3420.3–2 Expressions of leasing interest.

(a) A call for expressions of leasing interest may be made after areas acceptable for further consideration for leasing have been identified by land use planning completed consistent with the provisions of § 3420.1–4 of this title.

(b) Each call for expressions of leasing interest shall be published as a notice in the **Federal Register** and in at least 1 newspaper of general circulation in each affected state.

§ 3420.3–3 Preliminary tract delineation.

(a) Tracts may be delineated in any areas acceptable for further consideration for leasing whether or not expressions of leasing interest have been received for those areas.

(b) When public bodies have submitted expressions of leasing interest, tracts shall be delineated when and where technically feasible for public body special leasing opportunities in accordance with § 3420.1–3 of this title.

(c) In cooperation with the Small Business Administration, tracts may be delineated when and where technically feasible for small business special leasing opportunities in accordance with § 3420.1–3 of this title.

(d) Other tracts to be used in a lease or fee exchange (43 CFR Subpart 3435 and 3436) may be delineated.

(e) A tract profile shall be formulated for each tract. The profile shall include:

(1) A summary of the information used in the delineation of the tract, and

(2) A site-specific environmental inventory and preliminary analysis.

§ 3420.3–4 Regional tracts ranking, selection, environmental analysis and scheduling.

(a)(1) Upon completion of tract delineation and preparation of the tract profiles, the regional coal team shall rank the tracts in classes of high, medium or low desirability for coal leasing. Three major categories of consideration shall be used in tract ranking: coal economics; impacts on the natural environment; and socioeconomic impacts. The subfactors to be considered under each category shall be those determined by the regional coal team as appropriate for that region, and shall be published in the regional lease sale environmental impact statement required by this section. Tracts may also be ranked for other coal management purposes, such as emergency leasing under subpart 3425 of this title or exchanges under subparts 3435 and 3436 of this title.

(2) The regional coal team may modify tract boundaries being ranked, if appropriate, to reflect additional information.

(3) In ranking tracts, the regional coal team shall solicit the recommendations of the Federal and State agencies having appropriate expertise, including the Geological Survey, the Fish and Wildlife Service and the Federal surface management agency, if other than the Bureau of Land Management.

(4) Where Federal leasing decisions are likely to have impacts on lands held in trust for an Indian tribe, the regional coal team shall solicit the recommendations of the tribe and the Bureau of Indian Affairs.

(5) A statement that descriptions of the tracts to be ranked are available shall be included with the notice announcing any regional coal team meeting at which those tracts shall be ranked. An opportunity for public comment on the tract rankings shall be provided during the regional coal team meeting.

(b)(1) Upon completion of tract ranking, the regional coal team shall select at least 1 combination of tracts that approximates the regional leasing level. The team shall also select tract combinations representing alternative leasing levels. The team may identify alternative combinations of tracts within a leasing level.

(2) The regional coal team may adjust the tract ranking and select tracts to reflect considerations including: (i) the compatibility of coal quality, coal type and market needs; (ii) environmental and socioeconomic impacts; (iii) the compatibility of reserve size and demand distribution for tracts; (iv) public opinion; (v) avoidance of future emergency lease situations; and (vi) special leasing opportunity requirements.

(c) After tract ranking and selection, a regional lease sale environmental impact statement on all tract combinations selected by the regional coal team for the various leasing levels and all other reasonable alternative leasing levels shall be prepared by the Bureau of Land Management in accordance with the provisions of the National Environmental Policy Act. The statement shall consider both:

(1) The site-specific potential environmental impacts of each tract being considered for lease sale; and

(2) The intraregional cumulative environmental impacts of the proposed leasing action and alternatives, and other coal and noncoal development activities.

(d) The results of the ranking and selection process, including the tract rankings, the tract selected and the list of ranking criteria used shall be published in the regional lease sale environmental impact statement required by paragraph (c) of this section. Detailed information on each of the tracts shall be available for inspection in the Bureau of Land Management State offices that have jurisdiction over lands within the coal production region (See 43 CFR Subpart 1821).

(e) Public hearings shall be held in the region following the release of the draft regional lease sale environmental impact statement to announce and discuss the results of the ranking and selection process and the potential impacts, including proposed mitigation measures.

(f) Upon the close of the comment period on the draft environmental impact statement, the regional coal team shall analyze the comments and make any appropriate revisions in the tract ranking and selection. The final regional lease sale environmental impact statement shall reflect such revisions.

(g) Upon completion and release of the final regional lease sale environmental impact statement, the regional coal team shall recommend specific tracts for lease sale and a lease sale schedule. The chairperson shall submit the recommendations to the Director. Any disagreement as to the recommendation among the team shall be documented and submitted by the chairperson along with the team recommendation. The Director shall submit the final regional environmental impact statement to the Secretary for his/her decision, together with the recommendation of the team and any recommendations the Director may wish to make.

(h) The tract ranking, selection and scheduling process and the regional lease sale environmental impact statement shall be revised or repeated as needed. The Secretary may, in consultation with the Governor(s) of the affected State(s) and surface management agencies, initiate or postpone the process to respond to

considerations such as major land use planning updates, new tract delineations or increases or decreases in the leasing levels.

§ 3420.4 Final consultations.

§ 3420.4–1 Timing of consultation.

Following the release of the final regional lease sale environmental impact statement, and prior to adopting a regional lease sale schedule, the Secretary shall engage in formal consultation as specified in §§ 3420.4–2 through 3420.4–5 of this title.

§ 3420.4–2 Consultation with surface management agencies.

(a) The Secretary, for any proposed lease tract containing lands the surface of which is under the jurisdiction of any agency other than the Department, shall request that the agency: (1) consent, if it has not already done so, to the issuance of the lease (43 CFR 3400.3–1), and (2) if it consents, prescribe the terms and conditions the Secretary will impose in any lease which the head of the agency requires for the use and protection of the nonmineral interests in those lands.

(b) The Secretary may prescribe additional terms and conditions that are consistent with the terms proposed by the surface management agency to protect the interest of the United States and to safeguard the public welfare.

§ 3420.4–3 Consultation with Governors.

(a) The Secretary shall consult the Governor of the state in which any tract proposed for sale is located. The Secretary shall give the Governor 30 days to comment before adopting a regional lease sale schedule or, for lease applications, before publishing a notice of sale for any tract within the State.

(b) When a tract proposed for lease sale within the boundaries of a National Forest would, if leased, be mined by surface mining methods, the Governor of the state in which the land to be leased is located shall be so notified by the Secretary. If the Governor fails to object to the lease sale proposal in 60 days, the Secretary may publish a notice of sale, including that tract. If, within the 60 day period, the Governor, in writing, objects to the lease sale proposal, the Secretary may not publish a notice of sale for that tract. Publication of the notice of sale shall be held in abeyance for 6 months from the date that the Governor objects. The Governor may, during this six-month period, submit a written statement of reasons why the tract should not be proposed for lease sale, and the Secretary shall, on the basis of this statement, reconsider the lease sale proposal.

§ 3420.4–4 Consultation with Indian tribes.

The Secretary shall consult with any Indian tribe which may be affected by the adoption of the proposed regional lease sale schedule. The Secretary shall give the tribe 30 days in which to comment prior to adopting a lease sale schedule.

§ 3420.4–5 Consultation with the Attorney General.

The Secretary shall consult with and give due consideration to the advice of the Attorney General before the adoption of the proposed regional lease sale schedule. The Secretary shall provide 30 days in which the Attorney General may advise the Secretary prior to adopting a lease schedule.

§ 3420.5 Adoption of final regional lease sale schedule.

§ 3420.5–1 Announcement.

Following completion of the requirements of §§ 3420.3 and 3420.4 of this title the Secretary shall announce the adoption of a final regional lease sale schedule. The announcement shall be published in the Federal Register and contain a legal description of each tract included in the lease sale schedule and the date when each tract has been tentatively scheduled for sale. Notice of this announcement shall be published in at least 1 newspaper of general distribution in each state within the region for which the regional lease sale schedule is adopted.

§ 3420.5–2 Revision.

(a) The Secretary may revise either the list of tracts included in the schedule or the timing of the lease sales in accordance with any alternatives which were considered in the regional lease sale environmental impact statement and during consultation under § 3420.4 of this title. Notice of any such revision shall be published in the same manner as the announcement of the original regional lease sale schedule.

(b) Any regional lease sale schedule may be updated or replaced as a result of a new regional tract ranking, selection, and scheduling effort conducted in accordance with the provisions of § 3420.3–4 of this title.

Subpart 3422 – Lease Sales

§ 3422.1 Fair market value and maximum economic recovery.

(a) Not less than 30 days prior to the publication of a notice of sale, the Secretary shall solicit public comments on fair market value (FMV) appraisal and the maximum economic recovery (MER) of the tract or tracts proposed to be offered and on factors that may affect these 2 determinations. Proprietary data marked as confidential may be submitted to the Minerals Management Service in response to the solicitation of public comments. Data so marked shall be treated in accordance with the laws and regulations governing the confidentiality of such information.

(b) The authorized officer shall request the Minerals Management Service to submit in writing a report containing information on the mining method evaluation, estimated coal reserves by bed, coal quality assessment, royalty and lease bond recommendations and an evaluation of the public comments on the FMV and MER.

(c)(1) The authorized officer shall not accept any bid that is less than the fair market value as determined by the Department.

(2) Minimum bonus bids shall not be less than $100 per acre.

§ 3422.2 Notice of sale and detailed statement.

(a) Prior to the lease sale, the authorized officer shall publish a notice of the proposed sale in the Federal Register and in a newspaper(s) of general circulation in the county or equivalent political subdivision in which the tracts to be sold are situated. The newspaper notice shall be published not less than once a week for 3 consecutive weeks. Such notice shall also be posted in the Bureau of Land Management State Office and shall be mailed to any surface owner of lands noticed for sale. The lease sale shall not be held until at least 30 days after such posting in the State Office.

(b) The notice shall:

(1) List the time and place of sale, the type of sale, bidding method, rental, and the description of the tract(s) being offered and the minimum bid(s) to be considered;

(2) Contain a description of the coal resources to be offered; and

(3) Contain information on where a detailed statement of the terms and conditions of the lease(s) which may result from the lease sale may be obtained.

(c) The detailed statement of the terms and conditions of the lease(s) offered and bidding instructions for sale shall:

(1) Contain an explanation of the manner in which the bids may be submitted;

(2) Contain a warning to all bidders concerning 18 U.S.C. 1860, which prohibits unlawful combination or intimidation of bidders;

(3) Specify that the Secretary reserves the right to reject any and all bids and the right to offer the lease to the next highest qualified bidder if the successful bidder fails to obtain the lease for any reason;

(4) Contain a notice that each bid shall be accompanied by the bidder's qualifications (See 43 CFR 3472.2–2);

(5) Contain a notice to bidders that the winning bidders shall have to submit the information required by the Attorney General for post-sale review (See 43 CFR 3422.3–4);

(6) If appropriate, contain (i) a copy of any written qualified surface owner consent, including purchase price, financial obligations and terms and conditions, filed and verified prior to the posting of the notice of lease sale in the appropriate Bureau of Land Management State Office; or (ii) a listing of lands for which qualified surface owner consent is required prior to lease sale but has not yet been filed, along with a statement that any consent for those lands filed prior to the deadline for such filings shall be made a part of the official file and shall be available for inspection by the public;

(7) If appropriate, contain a notice that bidders shall file a statement that all information they hold relevant to written consents affecting any area offered in the sale in which the bid is submitted has been filed with the proper Bureau of Land Management State Office (43 CFR Subpart 1821) in accordance with the provisions of subpart 3427 of this title;

(8) Contain a copy of the proposed lease, including all terms and special stipulations; and

(9) Contain any other information deemed appropriate by the authorized officer.

(d) Each successful bidder, if any, shall reimburse the United States for a proportionate share of the cost of publishing the notice of sale as a condition of lease issuance.

§ 3422.3 Sale procedures.

§ 3422.3–1 Bidding systems.

(a) The provisions of 10 CFR Part 378 are not applicable to this part.

(b) The Department may conduct lease sales using cash bonus-fixed royalty bidding systems or any other bidding system adopted through rulemaking procedures.

§ 3422.3–2 Conduct of sale.

(a)(1) Sealed bids shall be received only until the hour on the date specified in the notice of competitive leasing; all sealed bids submitted after that hour shall be returned. The authorized officer shall read all sealed bids, and shall announce the highest bid.

(2) No decision to accept or reject the high bid will be made at the time of sale.

(b) A sale panel shall convene to determine: (1) if the high bid was properly submitted; (2) if it reflects the FMV of the tract; and (3) whether the bidder is qualified to hold the lease. The recommendations of the panel shall be in writing and sent to the authorized officer who shall make the final decision to accept a bid or reject all bids. The sale panel's recommendation and the authorized officer's written decision shall be entered in the case file for the offered tract. The successful bidder shall be notified in writing. The Department reserves the right to reject any and all bids regardless of the amount offered, and shall not accept any bid that is less than FMV. The authorized officer shall notify any bidder whose bid has been rejected and include in such notice a statement of the reason for the rejection. The Department reserves the right to offer the lease to the next highest qualified bidder if the successful bidder fails to execute the lease, or is for any reason disqualified from receiving the lease.

(c) Each sealed bid shall be accompanied by a certified check, cashier's check, bank draft, money order, certificate of bidding rights, personal check or cash for one-fifth of the amount of the bonus, and a qualifications statement over the bidder's own signature with respect to citizenship and interests held, as prescribed in § 3472.2–2 of this title.

§ 3422.3–3 Unsurveyed lands.

If the land is unsurveyed, the successful bidder shall not be given notice to comply with the requirements of § 3422.4 of this title for lease issuance until the land has been surveyed as provided in § 3471.1–2 of this title.

§ 3422.3–4 Consultation with the Attorney General.

(a) Subsequent to a lease sale, but prior to issuing a lease, the authorized officer shall require the successful bidder to submit on a form or in a format approved by the Attorney General information relating to the bidder's coal holdings to the authorized officer for transmittal to the Attorney General. Upon receipt of the information, the authorized officer shall notify the Attorney General of the proposed lease issuance, the name of the successful bidder and terms of the proposed lease sale and shall transmit the bidder's statement on coal holdings. A description of the information required by the Attorney General and the form or format for submission of the information may be obtained from the authorized officer.

(b) Where a successful bidder has previously submitted the currently required information, a reference to the date of submission and to the serial number of the record in which it is filed, together with a statement of any and all changes in holdings since the date of the previous submission, shall be accepted.

(c) The authorized officer shall not issue a lease until 30 days after the Attorney General receives the notice and statement of the successful bidder's coal holdings, or the Attorney General notifies the authorized officer that lease issuance would not create or maintain a situation inconsistent with the antitrust laws, whichever comes first. The Attorney General shall inform the successful bidders and simultaneously, the Director, if the successful bidder's statement of coal holdings is incomplete or inadequate, and shall specify what information is required for the Attorney General to complete his review. The 30 day period shall stop running on the date of such notification and not resume running until the Attorney General receives the supplemental information.

(d) The authorized officer shall not issue the lease to the successful bidder, if, during the 30 day period, the Attorney General notifies the Director that the lease issuance would create or maintain a situation inconsistent with antitrust law, except after complying with paragraph (f)(2) of this section.

(e) If the Attorney General notifies the Director that a lease should not be issued, the authorized officer may:

(1) Reject all bids or may notify the Attorney General in accordance with paragraph (a) of this section that issuance of the proposed lease to the next qualified high bidder is under consideration; or

(2) Issue the lease if, after a public hearing is conducted on the record in accordance with the Administrative Procedure Act, the authorized officer determines that:

(i) Issuance of the lease is necessary to carry out the purposes of the Federal Coal Leasing Amendments Act of 1976;

(ii) Issuance of the lease is consistent with the public interest; and

(iii) There are no reasonable alternatives to the issuance of the lease consistent with the Federal Coal Leasing Amendments Act of 1976, the antitrust laws, and the public interest.

(f) If the Attorney General does not reply in writing to the notification in paragraph (a) of this section within 30 days, the authorized officer may issue a lease without waiting for the advice of the Attorney General.

(g) Information submitted to the authorized officer to comply with this section shall be treated as confidential and proprietary data if marked "confidential" by the reporting company. Confidential information shall be submitted to the authorized officer in a sealed envelope and shall be transmitted in that form to the Attorney General.

§ 3422.4 Award of Lease.

(a) After the authorized officer has accepted a high qualified bid, and the Attorney General has not objected to lease issuance or the procedures in § 3422.3–4(e)(2) of this title have been completed, the authorized officer shall send 4 copies of the lease form to the successful bidder. The successful bidder shall complete, sign and return these forms and shall pay the balance of the bonus bid, if required; pay the the first year's rental; pay the proportionate share of the cost of publishing the notice of sale; and file a lease bond. Upon receipt of the above, the authorized officer shall execute the lease.

(b) If the successful bidder dies before the lease is issued, the provisions of § 3472.2–4 of this title shall apply.

(c) At lease half of the acreage offered for competitive lease in any 1 year shall be offered on a deferred bonus payment basis. In a deferred bonus payment, the lessee shall pay the bonus in 5 equal installments; the first installment shall be submitted with the bid. The balance shall be paid in equal annual installments due and payable on the next 4 anniversary dates of the lease. If a lease is relinquished or otherwise cancelled or terminated, the unpaid remainder of the bid shall be immediately payable to the United States.

(d) If the successful bidder fails to comply with any requirement of paragraph (a) of this section or of § 3422.3–4 of this title, the deposit on the successful bid shall be forfeited to the United States.

(e) If the lease cannot be awarded for reasons determined by the authorized officer to be beyond the control of the successful bidder, the deposit submitted with the bid shall be refunded.

Subpart 3425—Leasing on Application

§ 3425.0–2 Objective.

The objective of this subpart is to provide an application process through which the Department may consider holding lease sales apart from the competitive leasing process set out in §§ 3420.3 through 3420.5–2 of this title,

where an emergency need for unleased coal deposits is demonstrated, or in areas outside coal production regions or outside eastern activity planning areas.

§ 3425.1 Application for lease.

§ 3425.1-1 Where filed.

Application for a lease covering lands subject to leasing (43 CFR 3400.2) shall be filed in the Bureau of Land Management State Office having jurisdiction over the lands or minerals involved (43 CFR Subpart 1821).

§ 3425.1-2 Contents of application.

No specific form of application is required. Three copies of the application, including preliminary and other data required by this subpart shall be filed. The lands applied for shall be described in accordance with § 3471 of this title. The application must be accompanied by the filing fee (43 CFR 3473.2).

§ 3425.1-3 Qualifications of the applicant.

Any applicant for a lease shall meet the qualifications required of a lessee as specified in subpart 3472 of this title.

§ 3425.1-4 Emergency leasing.

(a) An emergency lease sale may be held in response to an application under this Subpart if the applicant shows:

(1) That the coal reserves applied for shall be mined as part of a mining operation that is producing coal on the date of the application, and either:

(i) The Federal coal is needed within 3 years (A) to maintain an existing mining operation at its current average annual level of production on the date of application or (B) to supply coal for contracts signed prior to July 19, 1979, as substantiated by a complete copy of the supply or delivery contract, or both: or (ii) If the coal deposits are not leased they would be bypassed in the reasonably foreseeable future, and if leased, some portion of the tract applied for would be used within 3 years; and

(2) That the need for the coal deposits shall have resulted from circumstances that were either beyond the control of the applicant or could not have been reasonably foreseen and planned for in time to allow for consideration of leasing the tract under the provisions of § 3420.3 of this title.

(b) The extent of any lease issued under this section shall not exceed 8 years of recoverable reserves at the rate of production under which the applicant qualified in paragraph (a)(1) of this section. If the applicant qualifies under both subparagraphs (A) and (B) of paragraph (a)(1) of this section, the higher rate applies.

§ 3425.1-5 Leasing outside coal production regions.

A lease sale may be held in response to an application under this subpart if the application covers coal deposits which are outside coal production regions identified under § 3400.5 of this title

§ 3425.1-6 Hardship leases.

The Secretary may issue a lease under this subpart based on any application listed by serial number in the modified court order in *NRDC* v. *Hughes*, 454 F. Supp. 148 (D.D.C. 1978).

§ 3425.1-7 Preliminary data.

(a) Any application for a lease shall contain preliminary data to assist the authorized officer in conducting an environmental analysis as described in § 3425.3 of this title.

(b) Such preliminary data shall include:

(1) A map, or maps, showing the topography, physical features and natural drainage patterns, existing roads, vehicular trails, and utility systems; the location of any proposed exploration operations, including seismic lines and drill holes; to the extent known, the location of any proposed mining operations and facilities, trenches, access roads or trails, and supporting facilities including the approximate location and extent of the areas to be used for pits, overburden, and tailings; and the location of water sources or other resources that may be used in the proposed operations and facilities.

(2) A narrative statement, including:

(i) The anticipated scope, method, and schedule of exploration operations, including the types of exploration equipment to be used;

(ii) The method of mining anticipated, including the best estimate of the mining sequence and production rate to be followed;

(iii) The relationship between the mining operations anticipated on the lands applied for and existing or planned mining operations, or support facilities on adjacent Federal or non-Federal lands;

(iv) A brief description, including maps or aerial photographs, as appropriate, of: the existing land use or uses within and adjacent to the lands applied for; known geologic, visual, cultural, paleontological or archaeological features; wetlands and floodplains; and known habitat of fish and wildlife—particularly threatened and endangered species—any of which may be affected by the proposed or anticipated exploration or mining operations and related facilities;

(v) A brief description of the proposed measures to be taken to control or prevent fire and to mitigate or prevent soil erosion, pollution of surface and ground water, damage to fish and wildlife or other natural resources, air and noise pollution, adverse impacts to the social and infrastructure systems of local communities, and hazards to public health and safety; reclaim the surface; and meet other applicable laws and regulations. The applicant may submit other pertinent information that the applicant wishes to have considered by the authorized officer;

(vi) A statement which describes the intended use of the coal covered by the emergency application; and

(vii) Any other information which will show that the application meets the requirements of this subpart.

(c) The applicant may engage in casual use of the land in the application, but shall not undertake any exploration without prior authorization by exploration license, or undertake any mining operations until lease issuance.

(d) The authorized officer, after reviewing the preliminary data contained in an application, and at any time during an environmental assessment may request additional information from the applicant. Where the surface of the land is held by a qualified surface owner (Section 3400.0-5) and the mining method to be used is other than underground mining techniques, the authorized officer shall obtain documents necessary to show ownership of the surface. The applicant shall submit evidence of written consent from any qualified surface owner(s) in accordance with subpart 3427 of this title.

§ 3425.1-8 Rejection of applications.

(a) An application for a lease shall be rejected in total or in part if the authorized officer determines that: (1) the application is not consistent with applicable regulations; (2) issuance of the lease would compromise the regional leasing process described in § 3420.3 of this title; or (3) leasing of the lands covered by the application, for environmental or other sufficient reasons, would be contrary to the public interest.

(b) Any application subject to rejection under subsection (a) of this section shall not be rejected until the applicant is given written notice of the opportunity to provide requested missing information and fails to do so within the time specified in the decision issued for that purpose.

§ 3425.1-9 Modification of application area.

The authorized officer may add or delete lands from an area covered by an application for any reason he/she determines to be in the public interest.

§ 3425.2 Land use plans.

No lease shall be offered for sale under this subpart unless the lands have been included in a comprehensive land use plan or a land use analysis, as required in § 3420.1-4 of this title. The decision to hold a lease sale shall be consistent with the appropriate comprehensive land use plan or land use analysis.

§ 3425.3 Environmental analysis

(a) Before a lease sale may be held under this subpart, the authorized officer shall prepare an environmental assessment or environmental impact statement of the proposed lease area in accordance with 40 CFR 1500 through 1508.

(b) For lease applications involving lands in the National Forest System, the authorized officer shall submit the lease application to the Secretary of Agriculture for consent, for completion or consideration of an environmental assessment and for the attachment of appropriate lease stipulations, and for the making of any other findings prerequisite to lease issuance. (43 CFR 3400.3, 3461.1(a)).

§ 3425.4 Consultation and sale procedures.

(a)(1) Prior to holding any lease sale in response to any application under this subpart, a public hearing shall be held on the environmental assessment or environmental impact statement, the proposed sale and the fair market value and maximum economic recovery on the proposed lease tract.

(2) Prior to holding any lease sale under this subpart, the Secretary shall consult with the entities and individuals listed in §§ 3420.4–2 through 3420.4–5 of this title.

(b) Subpart 3422 of this title applies in full to any sale to be held in response to an application filed under this subpart.

§ 3425.5 Lease terms.

The terms of a lease issued under this subpart shall be consistent with the terms established for all competitive coal leases (43 CFR 3470).

Subpart 3427—Split Estate Leasing

§ 3427.0–1 Purpose.

The purpose of this subpart is to set out the protection that shall be afforded qualified surface owners of split estate lands (43 CFR 3400.0–5) and the requirements for submission of evidence of written surface owner consent from qualified surface owners of split estate lands.

§ 3427.0–3 Authority.

(a) These regulations are issued under the authority of the statutes cited in § 3400.0–3 of this title.

(b) These regulations primarily implement section 714 of the Surface Mining Control and Reclamation Act of 1977 (30 U.S.C. 1304), as construed in Solicitor's Opinion M–36909, 86 I.D. 28 (1979).

§ 3427.0–7 Scope.

The surface owner consent provisions of the Surface Mining Control and Reclamation Act do not apply:

(a) to preference right lease applications; and

(b) if the split estate coal is to be mined by underground mining techniques. (43 CFR 3500.0–5.)

§ 3427.1 Deposits subject to consent.

On split estate lands (43 CFR 3400.0–5(kk)) where the surface is owned by a qualified surface owner, coal deposits that will be mined by other than underground mining techniques shall not be included in a lease sale without evidence of written consent from the qualified surface owner (43 CFR 3400.0–5(gg)) allowing entry and commencement of surface mining operations.

§ 3427.2 Procedures.

(a)(1) Each written consent or evidence of written consent shall be filed with the appropriate Bureau of Land Management State Office (43 CFR Subpart 1821). For lands offered for lease sale pursuant to subpart 3420 of this title, consents or written evidence thereof shall be filed on or before a date prior to the lease sale specified in a notice published in the Federal Register. For lands offered for lease sale pursuant to subpart 3425 of this title, consents or written evidence thereof shall be filed prior to the posting of the lease sale notice.

(2) Statement of refusal to consent shall be filed with the appropriate Bureau of Land Management State Office, but such statement shall be accepted for filing only during activity planning.

(b) Written consent, evidence of written consent, or statement of refusal to consent may be filed by any private person or persons with a potential interest in the lease sale of split estate lands.

(c) Such filing shall, at a minimum, contain the present legal address of the qualified surface owner, and the name, ownership, interest, if any, and legal address of the party making the filing, and if it is a written consent or evidence thereof, a copy of the written consent or evidence thereof.

(d) The authorized officer shall verify that the written consent or evidence of such consent meets all of the following requirements, and that the statement of refusal to consent meets the requirements of paragraphs (d)(2) and (3) of this section:

(1) The right to enter and commence mining is transferable to whoever makes the successful bid in a lease sale for a tract which includes the lands to which the consent applies. A written consent shall be considered transferable only if it provides that after the lease sale for the tract to which the consent applies:

(i) The successful bidder shall assume all rights and obligations of the holder of the consent, including the obligation to make all payments to the grantor of the consent and to reimburse the holder of the consent for all money previously paid to the grantor under the consent contract; and

(ii) Neither the holder nor the grantor of the consent has any right under the consent contract to prevent the successful bidder from assuming the rights and obligations of the holder of the consent by imposing additional costs or conditions or otherwise;

(2) The named surface owner is a qualified surface owner as defined in § 3400.0–5(gg) of this title; and

(3) The title for all split estate lands described in the filing is held by the named qualified surface owners.

(e) Upon receipt of a filing from anyone other than the named qualified surface owner, the authorized officer shall contact the named qualified surface owner and request his confirmation in writing that the filed, written consent or evidence thereof to enter and commence mining has been granted, and that the filing fully discloses all of the terms of the written consent, or that the refusal to consent is accurate.

(f) The applicable conditions of paragraphs (d) and (e) of this section shall be met prior to the lease sale for lands to which the consents apply.

(g) The authorized officer shall in all cases notify the person or persons filing the written consent, evidence of written consent, or statement of refusal to consent of the results of the review of the filing, including any request for additional information needed to satisfy the requirements of this subpart in cases where insufficient information was supplied with the original filing.

(h) The purchase price of any applicable written consent from a qualified surface owner submitted and verified prior to posting of the notice of lease sale shall be included with the description of the tract(s) in the notice of lease sale, and the other terms of the consent shall be included in the detailed statement of the sale for the tract(s). Any consent filed after posting of the notice of lease sale shall be placed in the official file for the lease tract(s) to which the consent applies and shall be available for inspection by the public in the appropriate Bureau of Land Management State office (43 CFR Subpart 1821).

(i) Any statement of refusal to consent shall be treated as controlling until the activity planning cycle that includes the area covered by the refusal to consent is repeated or the surface estate is sold. When an activity planning cycle is initiated, the qualified surface owner shall be notified that his/her prior statement of refusal has expired and shall be given the opportunity to submit another statement.

(j) If the surface owner fails to provide evidence of qualifications in response to surface owner consultation or to a written request for such evidence, and if the authorized officer is unable to independently determine whether or not the surface owner is qualified, the authorized officer shall presume that the surface owner is unqualified. The authorized officer shall notify the surface owner in writing of this determination and shall provide the surface owner an opportunity to appeal the determination.

§ 3427.3 Validation of information.

Any person submitting a written consent shall include with his filing a statement that the evidence submitted, to the best of his knowledge, represents a true, accurate, and complete statement of information regarding the consent for the area described.

§ 3427.4 Pre-existing consents.

An otherwise valid written consent

given by a qualified surface owner prior to August 3, 1977, shall not be required to meet the transferability of § 3427.2(d)(1) of this title.

§ 3427.5 Unqualified surface owners.

(a) Lease tracts involving surface owners who are not qualified (see § 3400.0–5(gg)) shall be leased subject to the protections afforded the surface owner by the statute(s) under which the surface was patented and the coal reserved to the United States. No consent from an unqualified surface owner is required under this subpart before the authorized officer may issue a lease for such a tract (see section 9 of the Stock-Raising Homestead Act (43 U.S.C. 249); the Act of March 3, 1909 (30 U.S.C. 81); section 3 of the Act of June 22, 1910 (30 U.S.C. 85); and section 5 of the Act of June 21, 1949 (30 U.S.C. 54)).

(b) The provisions of §§ 3427.1 through 3427.4 of this title are inapplicable to any lease tract on which a consent has been given by an unqualified surface owner. The high bidder at the sale of such a tract is not required to submit any evidence of written consent before the authorized officer may issue the lease unless the statute establishing the relative rights of the United States (and its lessees) and the surface owner so requires.

PART 3430—NONCOMPETITIVE LEASES

Subpart 3430—Preference Right Leases

Sec.

3430.0–1 Purpose.
3430.0–3 Authority.
3430.0–7 Scope.
3430.1 Preference right leases.
3430.1–1 Showing required for entitlement to a lease.
3430.1–2 Commercial quantities defined.
3430.2 Application for lease.
3430.2–1 Initial showing.
3430.2–2 Additional time.
3430.3 Planning and environment.
3430.3–1 Land use planning
3430.3–2 Environmental analysis.
3430.4 Final showing.
3430.4–1 Request for final showing.
3430.4–2 Additional information.
3430.5 Determination of entitlement to lease.
3430.5–1 Rejection of application.
3430.5–2 Appeals, lack of showing.
3430.5–3 Determination to lease.
3430.5–4 Lease exchange.
3430.6 Lease issuance.
3430.6–1 Lease terms.
3430.6–2 Bonding.
3430.6–3 Duration of leases.
3430.7 Trespass.

Subpart 3431 – Negotiated Sales – Rights-of-Way.

3431.0–1 Purpose.
3431.0–3 Authority.
3431.1 Qualified purchaser.
3431.2 Terms and conditions of sale.

Subpart 3432 – Lease Modifications.

3432.0–3 Authority
3432.1 Application
3432.2 Availability.
3432.3 Terms and conditions.

Subpart 3435 – Lease Exchange.

3435.0–1 Purpose.
3435.0–3 Authority.
3435.1 Coal lease exchanges.
3435.2 Qualified exchange proponents-limitations.
3435.3 Exchange procedures.
3435.3–1 Exchange notice.
3435.3–2 Initial response by lessee or lease applicant.
3435.3–3 Agreement to terms.
3435.3–4 Determination of value.
3435.3–5 Notice of public hearing.
3435.3–6 Consultation with Governor.
3435.3–7 Consultation with the Attorney General.
3435.4 Issuance of lease, lease modification, or bidding rights.

Subpart 3436 – Coal Lease and Coal Land Exchanges – Alluvial Valley Floors.

3436.0–1 Purpose.
3436.0–2 Objective.
3436.0–3 Authority.
3436.0–5 Definitions.
3436.1 Coal lease exchanges.
3436.1–1 Qualified lease proponents.
3436.1–2 Federal coal deposits subject to lease by exchange.
3436.1–3 Exchange procedures.
3436.2 Fee coal exchanges.
3436.2–1 Qualified exchange proponents.
3436.2–2 Federal coal deposits subject to disposal through exchange.
3436.2–3 Exchange procedures.

Authority – 30 U.S.C. 181 et seq.; 30 U.S.C. 521–531; 30 U.S.C. 351–358; 30 U.S.C. 1201 et seq.; 42 U.S.C. 7101 et seq. and 43 U.S.C. 1701 et seq.

Subpart 3430—Preference Right Leases

§ 3430.0–1 Purpose.

These regulations set forth procedures for processing noncompetitive (preference right) coal lease applications on Federal lands.

§ 3430.0–3 Authority.

(a) These regulations are issued under the authority of the statutes cited in § 3400.0–3 of this title.

(b) These regulations primarily implement section 2(b) of the Mineral Leasing Act of 1920 (30 U.S.C. 201(b)).

§ 3430.0–7 Scope.

Section 4 of the Federal Coal Leasing Amendments Act of 1976, amending 30 U.S.C. 201(b), repealed the Secretary's authority to issue or extend a coal prospecting permit on Federal lands. Therefore, these regulations apply only to preference right lease applications based on prospecting permits issued prior to August 4, 1976. The surface owner consent provisions of section 714 of the Surface Mining Control and Reclamation Act of 1977 (30 U.S.C. 1304) do not apply to preference right lease applications.

§ 3430.1 Preference right leases.

§ 3430.1–1 Showing required for entitlement to a lease.

An applicant for a preference right lease shall be entitled to a noncompetitive coal lease if the applicant can demonstrate that he discovered commercial quantities of coal on the prospecting permit lands within the term of the prospecting permit, all other requirements having been met.

§ 3430.1–2 Commercial quantities defined.

For the purpose of § 3430.1–1 of this title, commercial quantities is defined as follows:

(a) The coal deposit discovered under the prospecting permit shall be of such character and quantity that a prudent person would be justified in further expenditure of his labor and means with a reasonable prospect of success in developing a valuable mine.

(b) The applicant shall present sufficient evidence to show that there is a reasonable expectation that revenues from the sale of the coal shall exceed the cost of developing the mine and extracting, removing, transporting, and marketing the coal. The costs of development shall include the estimated cost of exercising environmental protection measures and suitably reclaiming the lands and complying with all applicable Federal and state laws and regulations.

§ 3430.2 Application for lease.

§ 3430.2–1 Initial showing.

All preference right coal lease applications shall have contained or shall have been supplemented by the timely submission of:

(a) Information on the quantity and quality of the coal resources discovered within the boundaries of the prospecting permit area, including an average proximate analysis, sulfur content and BTU content of the coal, and all supporting geological and geophysical data used to develop the required information.

(b) Topographic maps as available from state or Federal sources showing physical features, drainage patterns, roads and vehicle trails, utility systems, and water sources. The location of proposed development and mining operations facilities shall be identified on the maps. These maps shall include the approximate locations and extent of tailings and overburden storage areas; location and size of pit areas; and the location of water sources or other resources that may be used in the proposed operation and facilities incidental to that use.

(c) A narrative statement that includes:

(1) The anticipated scope of operations, the schedule of operations, and the types of equipment to be used;

(2) The mining method to be used and an estimate of the expected mining sequence and production rate; and

(3) The relationship, if any, between operations planned on the land applied

for and existing or planned operations and facilities on adjacent lands;

(d) The authorized officer may request from the applicant, or the applicant may submit, any other information necessary to conduct an environmental analysis of the proposed mining operation, formulate mitigating measures and lease terms and determine commercial quantities.

§3430.2–2 Additional time.

(a) If the applicant has timely submitted some, but not all, of the information required by §3430.2–1 of this title, the authorized officer shall request additional information and shall specify the information required.

(b) The applicant shall submit any requested information within 60 days of the date of the request. The authorized officer may grant one 60-day extension if the applicant files a written request for an extension within the first 60-day period.

§ 3430.3 Planning and environment.

§ 3430.3–1 Land use planning.

(a) As a matter of policy, the Department shall complete the processing of all preference right lease applications by December 1, 1984.

(b) Preference right lease applications shall be processed in the cycle of on-going comprehensive land use plans unless the authorized officer determines that the processing of the application, in the cycle of on-going comprehensive land use plans, will not be completed by December 1, 1984.

(c)(1) Each applicant may file a request with the authorized officer:

(i) for an estimate of when the application shall be processed in the cycle of on-going comprehensive land use plans; and

(ii) to have the applicant's application processed in advance of the period specified in the authorized officer's estimate.

(2) The request shall include a statement of how the applicant will benefit from having the application processed more quickly than otherwise scheduled, and shall specify how the pendency of the application affects the applicant's production, marketing or use of coal before 1986.

(3) If the authorized officer concludes that the failure to process an application apart from the cycle of on-going comprehensive land use plans would cause the applicant substantial hardship, the authorized officer may process the application apart from the cycle of on-going comprehensive land use plans in a land use analysis.

§ 3430.3–2 Environmental analysis.

(a) After the applicant has completed the initial showing required under § 3430.2 of this title, the authorized officer shall conduct an environmental analysis of the proposed preference right lease area and prepare an environmental assessment or environmental impact statement on the application.

(b) The environmental analysis may be conducted in conjunction with and included as part of the environmental impact statement required for coal activity planning under §3420.3–4 of this title.

§3430.4 Final showing.

§3430.4–1 Request for final showing.

(a) Upon completion of the environmental assessment or impact statement on the application, the authorized officer shall, if not previously submitted, request a final showing by the applicant.

(b) The authorized officer shall transmit to the applicant, seperately or with a request for final showing, the following:

(1) The proposed lease form, including any proposed stipulations; and

(2) A copy of the environmental assessment or impact statement on the application including a map or maps showing all areas subject to specific conditions or protective stipulations because they have been assessed or designated to be unsuitable for all or certain stipulated methods of coal mining, or because of other identified values that are not embodied in the unsuitability criteria in subpart 3461 of this title.

(c) Within 90 days of receiving the proposed lease form, the applicant shall submit the following information:

(1) Estimated revenues;

(2) The estimated costs that a prudent person would consider before deciding to operate the proposed mine, including but not limited to, the cost of developing the mine, removing the coal, processing the coal to make it salable, transporting the coal, paying applicable royalties and taxes, and complying with applicable laws and regulations, the proposed lease terms, and special stipulations; and

(3) If the applicant intends to mine the deposit in the lands covered by a preference right lease application as part of a logical mining unit, the applicant shall include the estimated costs and revenue of the combined mining venture.

(d) The applicant may withdraw any lands from the application and delete them from the final showing if the applicant is no longer interested in leasing such lands or if such lands would be subject to special conditions or protective stipulations and the cost of mining the lands subject to these conditions or protective stipulations would adversely affect the commercial quantities determination.

(e) The applicant may delete any area subject to special conditions or protective stipulations, because it has been assessed to be unsuitable or otherwise, and the costs of mining subject to the conditions or protective stipulations, from the final showing required by paragraph (c) of this section.

§ 3430.4–2 Additional information.

(a) If the applicant for a preference right lease has submitted timely, some, but not all of the information required in § 3430.4–1 of this title, the authorized officer shall request additional information and shall specify the information required.

(b) The applicant shall submit any requested additional information within 60 days of the receipt of the request. The authorized officer may grant one 60-day extension if the applicant files a written request within the first 60-day period.

§ 3430.5 Determination of entitlement to lease.

§ 3430.5–1 Rejection of application.

(a) The authorized officer shall reject the application if:

(1) The applicant fails to show that coal exists in commercial quantities on the applied for lands; or

(2) The applicant does not respond to a request for additional information within the time period specified in §§ 3430.2–3 or 3430.4–2 of this title; or

(3) The applicant otherwise failed to meet statutory or regulatory requirements; or

(4) The applicant does not permit declassification of proprietary information within the time period specified in §3430.2–2(b) of this title.

(b)(1) The authorized officer shall reject those portions of an otherwise acceptable application which were not available for prospecting when the underlying prospecting permit was issued because the lands were claimed, developed or withdrawn from coal leasing.

(2) In any action under this subsection, the authorized officer shall reject all lands in each affected smallest legal subdivision or, if practicable, each affected 10 acre aliquot part of the subdivision.

§ 3430.5–2 Appeals, lack of showing.

(a) If the application is rejected because the existence of commercial quantities of coal has not been shown, the applicant may, in accordance with the procedures in Part 4 of this title, file a notice of appeal and a statement of the reasons for the appeal.

(b) The applicant shall have the right to a hearing before an Administrative Law Judge if the applicant alleges that the facts in the application are sufficient to show entitlement to a lease.

(c) In such a hearing, the applicant shall bear both the burden of going forward and the burden of proof to show, by a preponderance of evidence, that commercial quantities of coal exist in the proposed lease area.

§ 3430.5–3 Determination to lease.

A preference right lease shall be issued if, upon review of the application, any available land use plan and the environmental assessment or environmental impact statement, the authorized officer determines that:

(a) Coal has been discovered in commercial quantities on the lands applied for;

(b) The applicant has used reasonable economic assumptions and data to support the showing that coal has been found on the proposed lease in commercial quantities; and

(c) The conditions or protective lease stipulations assure that environmental damage can be avoided or acceptably mitigated.

§ 3430.5–4 Lease exchange.

(a) Upon the request of the applicant, the Secretary may initiate lease exchange procedures under subpart 3435 of this title if the lands under application have been shown to contain coal in commercial quantities.

(b) Upon the request of the authorized officer, the Secretary may initiate lease exchange procedures under subpart 3435 of this title if:

(1) The lands under application have been shown to contain commercial quantities of coal;

(2) All or a portion of the proposed lease has been assessed as lands which should be unavailable for coal development because of land use or resource conflicts or as lands which are unsuitable for coal mining under the provisions of subpart 3461 of this title; and

(3) The lands are exempted from the application of any relevant unsuitability criteria or the Secretary lacks the authority to prevent damage to or loss of the land use or resource values threatened by lease operations.

§ 3430.6 Lease issuance.

§ 3430.6–1 Lease terms.

Each preference right lease shall be subject to the terms provided for Federal coal leases established in Part 3470 of this title.

§ 3430.6-2 Bonding.

The lease bond for a preference right lease shall be set in accordance with subpart 3474 of this title.

§ 3430.6–3 Duration of leases.

Preference right leases shall be issued for a term of 20 years and for so long thereafter as coal is produced in commercial quantities as defined in subpart 3400.0–5 of this title. Each lease shall be subject to readjustment at the end of the first 20-year period and at the end of each period of 10 years thereafter in accordance with 30 CFR 211.2.

§ 3430.7 Trespass.

Mining operations conducted prior to the effective date of a lease shall constitute an act of trespass and be subject to penalties specified by § 9239.5 of this title.

Subpart 3431—Negotiated Sales—Rights-of-Way

§ 3431.0–1 Purpose.

The purpose of this subpart is to provide procedures for the sale of coal that is necessarily removed in the exercise of a right-of-way issued under Title V of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1761 et seq.).

§ 3431.0–3 Authority.

(a) The regulations of this subpart are issued under the authority of the statutes cited in § 3400.0–3 of this title.

(b) These regulations primarily implement section 2(a)(1) of the Mineral Leasing Act of 1920, as amended by section 2 of the Act of October 30, 1978 (30 U.S.C. 201(a)(1)).

§ 3431.1 Qualified purchaser.

Any person who has acquired or applied for a right-of-way under Title V of the Federal Land Policy and Management Act of 1976 which requires the removal of coal deposits as a necessary incident to development, construction or use of the right-of-way is qualified to purchase the coal to be removed.

§ 3431.2 Terms and conditions of sale.

(a) Coal to be removed in connection with a right-of-way shall be sold to the qualified purchaser only at the estimated fair market value, as determined by the Secretary.

(b) Where the right-of-way is being used in connection with the development of a lease, the removal of coal from the right-of-way shall be subject to the same requirements for health and safety protection, surface protection and rehabilitation that apply to the lease involved, and provisions for adequate recovery and conservation of the coal deposit.

(c) Where the right-of-way is not being used in the development of a Federal coal lease, the removal of the coal shall be made subject to the Surface Mining Control and Reclamation Act of 1977, and subject to such terms and conditions as the authorized officer of the surface managing agency determines are necessary: (1) to protect public health, safety, and the environment; and (2) to ensure adequate recovery and conservation of the coal deposits in the right-of-way.

(d) All terms and conditions of the sale shall be terms and conditions of the right-of-way and shall be administered under the provisions of group 2800 of this title.

Subpart 3432—Lease Modifications

§ 3432.0–3 Authority.

(a) The regulations of this subpart are issued under the authority of the statutes cited in § 3400.0–3 of this title.

(b) These regulations primarily implement section 3 of the Mineral Leasing Act of 1920, as amended by section 13 of the Federal Coal Leasing Amendments Act of 1976 (30 U.S.C. 203).

§ 3432.1 Application.

(a) A lessee may apply for a modification of a lease to include coal lands or coal deposits contiguous to those embraced in a lease. In no event shall the acreage in the application, when combined with the total area added by all modifications made after August 4, 1976, exceed 160 acres or the number of acres in the original lease, whichever is less.

(b) The lessee shall file the application for modification in the Bureau of Land Management State Office having jurisdiction over the lands involved (43 CFR Subpart 1821), describing the additional lands desired, the lessee's needs or reasons for such modification, and the reasons why the modification would be to the advantage to the United States.

§ 3432.2 Availability.

(a) The authorized officer may modify the lease to include all or part of the lands applied for if he determines that: (1) the modification serves the interests of the United States; (2) there is no competitive interest in the lands or deposits; and (3) the additional lands or deposits cannot be developed as part of another potential or existing independent operation.

(b) Coal deposits underlying land the surface of which is held by a qualified surface owner, and which would be mined by other than underground mining techniques, may not be added to a lease by modification.

(c) The lands applied for shall be added to the existing lease without competitive bidding, but the United States shall receive the fair market value of the lease of the added lands, either by cash payment or adjustment of the royalty applicable to the lands added to the lease by the modification.

§ 3432.3 Terms and conditions.

(a) The terms and conditions of the original lease shall be made consistent with the laws, regulations, and lease terms applicable at the time of modification except that if the original lease was issued prior to August 4, 1976, the minimum royalty provisions of section 6 of the Federal Coal Leasing Amendments Act of 1976 (30 U.S.C. 207; 43 CFR 3473.3–2) shall not apply to any lands covered by the lease prior to its modification until the lease is readjusted.

(b) Before a lease is modified, the lessee shall file a written acceptance of the conditions imposed in the modified lease and a written consent of the surety

under the bond covering the original lease to the modification of the lease and to extension of the bond to cover the additional land.

(c) A lease modification shall not be made until the authorized officer has complied with the procedures and standards set out in § 3425.3 of this title.

Subpart 3435—Lease Exchange

§3435.0–1 Purpose.

The objective of these regulations is to provide methods for exchange of coal resources when it would be in the public interest to shift the impact of mineral operations from leased lands or portion of leased lands to currently unleased lands to preserve public resource or social values, and to carry out Congressional directives authorizing coal lease exchanges.

§ 3435.0–3 Authority.

(a) These regulations are issued under the authority of the statutes cited in § 3400.0–3 of this title.

(b) These regulations primarily implement:

(1) Section 3 of the Mineral Leasing Act of 1920, as amended (30 U.S.C. 203);

(2) Section 510(b)(5) of the Surface Mining Control and Reclamation Act (30 U.S.C. 1260(b)(5); and

(3) Section 1 of the Act of October 30, 1978 (92 Stat. 2073).

(4) Section 1 of the Act of October 19, 1980 (94 Stat. 2269); and

(5) Section 4 of the Rattlesnake National Recreation Area and Wilderness Act of 1980 (94 Stat. 2272).

§3435.1 Coal lease exchanges.

Where the Secretary determines that coal exploration, development and mining operations would not be in the public interest on an existing lease or preference right lease application or portion thereof, or where the Congress has authorized lease exchange for a class or list of leases, an existing lease or preference right lease application may be relinquished in exchange for:

(a) Leases where the Congress has specifically authorized the issuance of a new coal lease;

(b) The issuance of coal lease bidding rights of equal value;

(c) A lease for a mineral listed in subpart 3526 of this title by mutual agreement between the applicant and the Secretary;

(d) Federal coal lease modifications; or

(e) Any combination of the above.

§ 3435.2 Qualified exchange proponents—Limitations.

(a) Any person who holds a Federal coal lease, or a preference right lease application that has been found to meet the commercial quantities requirements of §§ 3430.1 and 3430.5 of this title on lands described in § 3435.1 of this title is qualified to ask the Secretary to initiate an exchange.

(b) Except for leases qualified under subpart 3436 of this title, the Secretary may issue a new coal lease in exchange for the relinquishment of outstanding leases or lease applications only in those cases where the Congress has specifically authorized such exchanges.

(c) The Secretary shall evaluate each qualified exchange request and determine whether an exchange is in the public interest.

(d) Any modification of a coal lease in an exchange under this subpart shall be subject to the limitations in §§3432.1(a), and 3432.3(a).

§ 3435.3 Exchange procedures.

§ 3435.3–1 Exchange notice.

(a) The Secretary shall initiate exchange procedures by notifying in writing a Federal coal lessee or preference right lease applicant that consideration of an exchange of mineral leases or other coal lease interests is appropriate. The notification may be on the Secretary's initiative or in response to a request under § 3435.2 of this title.

(b) The exchange notice shall state why the Secretary believes an exchange may be in the public interest.

(c) The exchange notice shall contain a description of the leased lands or lands under preference right lease application being considered for exchange. These lands may include all or part of an existing lease or preference right lease application.

(d) The exchange notice may contain a description of the lands for which the Secretary would grant an exchange lease or lease interest. If a coal lease modification would be granted by exchange, the lands shall be selected from those lands found acceptable for further consideration for coal leasing under §3420.1 of this title.

(e) The notice shall contain a request that the lessee or preference right lease applicant indicate whether he is willing to negotiate an exchange.

§3435.3–2 Initial response by lessee or lease applicant.

(a) The lessee or preference right lease applicant wishing to negotiate an exchange shall so reply in writing. The reply may include a description of the lands on which the lessee or lease applicant would accept an exchange lease or coal lease modifications.

(b) A reply to the exchange notice by a lessee or preference right lease applicant indicating willingness to enter into an exchange shall also indicate willingness to provide the geologic and economic data needed by the Secretary to determine the fair market value of the lease or lease application to be relinquished. The lessee or preference right lease applicant shall also indicate willingness to provide any geologic and economic data in his possession that will help the Secretary to determine the fair market value of the potential Federal lease exchange tract or tracts.

§3435.3–3 Agreement to terms.

(a) If both parties wish to proceed with the exchange, the authorized officer and the lessee or preference right lease applicant shall negotiate on exchanges consistent with §3435.1 of this title.

(b) Land proposed for lease in exchange for, or for inclusion in, an existing lease or preference right lease application shall be subject to leasing under group 3400 or 3500 of this title as appropriate, and any coal lands shall have been found to be acceptable for further consideration for leasing under §3420.1 of this title.

§ 3435.3–4 Determination of value.

The value of the land to be leased, or added by lease modification, or of the bidding rights to be issued in exchange shall, to the satisfaction of the lessee or lease applicant and the Secretary, be equal to the estimated fair market value of the lease or lease application to be relinquished.

§3435.3–5 Notice of public hearing.

After the lessee or lease applicant and the Secretary agree on an exchange proposal, notice of the exchange proposal shall be published in the Federal Register and in at least 1 newspaper of general circulation in each county or equivalent political subdivision where both the offered and selected lands are located. The notice shall announce that, upon request, at least 1 public hearing shall be held in a city or cities located near each tract involved. The notice shall also contain the Secretary's preliminary findings why the proposed exchange is in the public interest. Any notice of the availability of a draft environmental assessment or environmental impact statement on the exchange may be used to comply with this section.

§3435.3–6 Consultation with Governor.

(a) The Secretary shall notify the Governor of each state in which lands in the proposed exchange are located of the terms of the exchange and the Secretary's preliminary findings why the exchange is in the public interest. The Secretary shall give each Governor 45 days after this notification to comment on the proposal prior to consummating the exchange.

(b) If, within the 45 day period, the Governor(s), in writing, objects to an exchange that involves leases or lease rights in more than one state, the Secretary will not consummate the exchange for 6 months from the date of objection. The Governor(s) may during this 6-month period submit a written statement why the exchange should not be consummated, and the Secretary shall, on the basis of this statement, reconsider the lease proposal.

§ 3435.3–7 Consultation with the Attorney General.

In any exchange which, if consummated, shall result in the issuance of a Federal coal lease, the Secretary, after issuing an exchange notice under § 3435.3–1 of this title and

before issuance of a written decision under § 3435.4 of this title;

(a) shall require the lessee or lease applicant to submit the information in § 3422.3–4 of this title; and

(b) if the Attorney General, within 30 days, objects to lease issuance, shall not issue the exchange lease except after complying with the provisions of § 3422.3–4(f)(2) of this title.

§3435.4 Issuance of lease, lease modification or bidding rights.

(a) If, after any public hearing(s), the Secretary by written decision concludes that an exchange is in the public interest, the Secretary shall transmit to the lessee or preference right lease applicant:

(1) A statement of the Secretary's findings that lease issuance is in the public interest;

(2) Either (i) copies of the coal or other mineral exchange lease or coal lease modification containing the terms, conditions and special stipulations under which the lease or coal lease modification is to be granted, or (ii) a statement describing the terms and conditions of the coal lease bidding rights to be granted in exchange; and

(3) A statement for execution by the lessee or preference right lease applicant relinquishing all right or interest in the lease or preference right lease application, or portion thereof, to be exchanged.

(b) The exchange lease, lease modification or coal lease bidding rights shall be issued upon relinquishment of the lease, preference right lease application, or portion thereof.

(c) The exchange lease or lease modification shall be subject to all relevant provisions of group 3400 or 3500 of this title, 30 CFR Chapter VII, Subchapter D and 30 CFR Part 211, as appropriate.

Subpart 3436 – Coal Lease and Coal Land Exchanges – Alluvial Valley Floors.

Sec.

3436.0–1 Purpose.
3436.0–2 Objective.
3436.0–3 Authority.
3436.0–5 Definitions.
3436.1 Coal lease exchanges.
3436.1–1 Qualified lease proponents.
3436.1–2 Federal coal deposits subject to lease by exchange.
3436.1–3 Exchange procedures.
3436.2 Fee coal exchanges.
3436.2–1 Qualified exchange proponents
3436.2–2 Federal coal deposits subject to disposal through exchange.
3436.2–3 Exchange procedures.

Subpart 3436 – Coal Lease and Coal Land Exchanges – Alluvial Valley Floors.

§3436.0–1 Purpose.

The purpose of this subpart is to establish criteria and procedures for the exchange of coal leases and for the exchange of fee held coal for unleased Federally-owned coal in cases where surface coal mining operations on the lands that are covered by an existing coal lease or that are fee held would interrupt, discontinue or preclude farming on alluvial valley floors west of the 100th Meridian, west longitude, or materially damage the quantity or quality of water in surface or underground systems that supply those alluvial valley floors.

§3436.0–2 Objective.

(a) The objective of this subpart is to provide relief to persons holding leases for Federal coal deposits or fee title to coal deposits which underlie or are near alluvial valley floors and which cannot be mined through surface mining operations under section 510(b)(5) of the Surface Mining Control and Reclamation Act, through the exchange of lands, or interests therein, pursuant to the authority granted by the statutory provision.

(b) The Secretary shall exercise the authority to dispose of Federal coal deposits by lease to meet this objective when he/she determines that the exchange would serve the public interest. In determining whether such an exchange will serve the public interest, the Secretary will consider a wide variety of factors, including better Federal land management and the needs of State and local people, including needs for lands for the economy, community expansion, recreation areas, food, fiber, minerals and fish and wildlife. Unless consideration of the above factors would show otherwise, it will be assumed that an exchange will serve the public interest if substantial financial and legal commitments have been made toward development of the offered coal resource.

§3436.0–3 Authority.

(a) These regulations are issued under the authority of the statutes cited in §3400.0–3 of this title.

(b) These regulations primarily implement section 510(b)(5) of the Surface Mining Control and Reclamation Act of 1977 (30 U.S.C. 1260(b)(5)).

§3436.0–5 Definitions.

As used in this subpart, the term "substantial financial and legal commitments" is a relative one, and the determination whether such commitments have been made, so as to qualify a person for an exchange under this subpart, will be made on a case-by-case basis. In making this determination, the Secretary will consider the level of expenditures made prior to January 1, 1977, that are related to development of the coal resource which is offered in exchange, taken together with the damages for which the person would be liable as a result of any legal commitments made prior to January 1, 1977, in connection with development of said coal resource, and the Secretary will compare that level of expenditure to the estimated total cost of developing the coal resource to the point of establishing a producing surface coal mining operation.

§3436.1 Coal lease exchanges.

§3436.1–1 Qualified lease proponents.

(a) Coal lease exchanges under this program shall be available only to persons who:

(1) Hold a Federal coal lease or preference right lease application covering lands that include or are near an alluvial valley floor located west of the 100th Meridian, west longitude, where surface coal mining operations are prohibited by section 510(b)(5) of the Surface Mining Control and Reclamation Act because such operations would interrupt farming or materially damage the quantity and quality of the water in surface or underground water systems that would supply the alluvial valley floor;

(2) Have made substantial financial and legal commitments prior to January 1, 1977, in connection with the lease or preference right lease application; and

(3) Are not entitled to continue any existing surface coal mining operations pursuant to the first proviso of section 510(b)(5) of the Surface Mining Control and Reclamation Act.

(b) Persons seeking an exchange bear the burden of establishing that they are qualified pursuant to paragraph (a) of this section. The Secretary shall accept a determination made pursuant to 30 CFR 785.19(c) as conclusive evidence of the existence of an alluvial valley floor.

§3436.1–2 Federal coal deposits subject to lease by exchange.

The lease offered by the Secretary in exchange for existing coal leases shall be for Federal coal deposits determined to be acceptable for further consideration for coal leasing pursuant to §3420.1–5 or §3420.2–3 of this title.

(a) Any person meeting the requirements of §3436.1–1(a) of this title may apply for a lease exchange. No special form of application is required.

(b) The Secretary shall evaluate each exchange request to determine whether the proponent is qualified and whether the exchange serves the public interest. The exchange shall be processed in accordance with the procedures in subpart 3435 of this title for other lease and lease interest exchanges.

(c) After the Secretary and the exchange proponent have agreed to terms pursuant to §3435.3–3 of this title, the Secretary may elect to consider the exchange proposal in conjunction with the activity planning process for the coal production region in which the lands proposed to be leased are located pursuant to §3420.3 of this title. If the Secretary elects to process the exchange proposal in this manner, the tracts identified for use in the lease exchange shall be:

(1) Delineated for analysis pursuant to §3420.3–3 of this title;

(2) Ranked as having high desirability pursuant to §3420.3–4(a) of this title; and

(3) Selected for inclusion for analysis purposes in alternative proposed lease sale schedules pursuant to §3420.3–4(c) of this title. Such tracts shall then be the subject of environmental analysis, public comment and consultation pursuant to §§3420.3 and 3420.4 of this title.

(d) If the Secretary elects to process the exchange proposal independently of the activity planning process, the Secretary shall consider the

environmental and resource information acquired during the land use planning process and found in the most recent regional environmental impact statement completed under the Federal coal management program. An environmental assessment or environmental impact statement shall be prepared on the proposed exchange prior to the public hearings and consultation required by §§3435.3–5 through 3435.3–7 of this title.

(e) In determining under §3435.3–4 of this title the estimated value of the lease or preference right lease application to be relinquished, the Secretary shall proceed as though there were no prohibitions on surface mining operations on the lands covered by the lease or preference right lease application.

(f) The exchange proponent shall bear all administrative costs of the exchange, including the cost of establishing the value of each lease involved in the exchange.

§3436.2 Fee coal exchanges.

§3436.2–1 Qualified exchange proponents.

(a) Fee coal exchanges under this program shall only be available to persons who:

(1) Own coal west of the 100th Meridian, west longitude, underlying or near an alluvial valley floor where surface coal mining operations are prohibited by section 510(b)(5) of the Surface Mining Control and Reclamation Act because such operations would interrupt farming or materially damage the quantity and quality of the water in surface or underground water systems that would supply the alluvial valley floor; and

(2) Are not entitled to continue any existing surface coal mining operation pursuant to the first proviso to section 510(b)(5) of the Surface Mining Control and Reclamation Act.

(b) Exchange proponents bear the burden of establishing their qualifications pursuant to paragraph (a) of this section. The Secretary shall accept a determination made pursuant to 30 CFR 785.19(c) as conclusive evidence of the existence of an alluvial valley floor.

§3436.2–2 Federal coal deposits subject to disposal by exchange.

The coal deposits offered in exchange by the Secretary shall be determined to be acceptable for further consideration for coal leasing pursuant to §3420.1 of this title and shall be in the same State as the coal deposit offered in exchange by the proponent.

§3436.2–3 Exchange procedures.

(a) Any person meeting the requirements of §3436.2–1(a) of this title may apply for an exchange. No special form of application is required. Any exchange proposal should be directed to the District Manager for the Bureau of Land Management district in which the Federal coal deposits are located.

(b) The Secretary shall evaluate each exchange request to determine whether the proponent is qualified.

(c) After the authorized officer and the owner of the coal deposit underlying an alluvial valley floor identify Federal coal deposits that are suitable for consideration for disposition through exchange, the exchange shall be processed in accordance with Part 2200 of this title, except as provided in this section.

(d) The Secretary may consolidate the environmental analysis for the proposed exchange with the regional environmental impact statement prepared on alternative leasing schedules for the coal production region in which the Federal coal deposits are located pursuant to §3420.3–4 of this title. If the environmental analysis is not so consolidated, the Secretary shall consider environmental and other resource information obtained during the land use planning process or at other stages of the coal management program in preparing an appropriate environmental analysis or environmental impact statement on the proposed exchange.

(e) Exchange shall be made on an equal value basis, provided that values of the lands exchanged may be equalized by the payment of money to the grantor or the Secretary so long as the payment does not exceed 25 percent of the total value of the lands or interests transferred out of Federal ownership. In determining the value of the coal deposit underlying or near an alluvial valley floor, the Secretary shall proceed as though there were no prohibition on surface coal mining operations on the property.

(f) The owner of the coal deposits underlying or near an alluvial valley floor shall bear all administrative costs of the exchange, including the cost of establishing the value of each deposit involved in the exchange.

PART 3440 – LICENSES TO MINE

Subpart 3440 – Licenses to Mine.

Sec.

3440.0–3 Authority.
3440.1 Terms.
3440.1–1 Forms.
3440.1–2 Qualifications.
3440.1–3 Limitations on coal use.
3440.1–4 Area and duration of license.
3440.1–5 Compliance with Surface Mining Control and Reclamation Act.
3440.1–6 Cancellation or forfeiture.

Authority: 30 U.S.C. 181 et seq.

Subpart 3440—Licenses to Mine

§ 3440.0–3 Authority.

(a) These regulations are issued under the authority of the statutes cited in § 3400.0–3 of this title.

(b) These regulations primarily implement section 8 of the Mineral Leasing Act of 1920, as amended (30 U.S.C. 208).

§ 3440–1. Terms.

§ 3440.1–1 Forms.

(a) Four copies of the application for a license to mine coal for domestic needs or for a renewal of such a license shall be filed on a form approved by the Director, or a substantial equivalent of the form, in the Bureau of Land Management State Office having jurisdiction over the lands involved (43 CFR Subpart 1821).

(b) The original application or any renewal application shall be accompanied by the fee prescribed in section 3473 of this title, except when the application is filed by a relief agency.

§ 3440.1–2 Qualifications.

(a) An individual, association or individuals, municipality, charitable organization or relief agency may hold a license to mine. A municipality shall file the information required under § 3472.2–5(b) of this title.

(b) A license to mine shall not be issued to a private corporation.

(c) A license to mine shall not be issued to a minor, but may be issued to a legal guardian on behalf of a minor.

§ 3440.1–3 Limitations on coal use.

(a) A license to mine may be issued to a municipality for the nonprofit mining and disposal of coal to its residents for household use only. Under such a license, a municipality may not mine coal either for its own use or for nonhousehold use such as for factories, stores, other business establishments and heating and lighting plants.

(b) Coal extracted under a license to mine shall not be disposed of for profit.

§ 3440.1–4 Area and duration of license.

(a) A license to mine for an individual or association in the absence of unusual conditions or necessity, shall be limited to a legal subdivision of 40 acres or less and may be revoked at any time. Each license to mine shall terminate at the end of 2 years from the date of issuance, unless an application for a 2 year renewal is filed and approved before its termination date.

(b) A license to mine to a municipality may not exceed 320 acres for a municipality of less than 100,000 population, 1,280 acres for a municipality between 100,000 and 150,000 population, and 2,560 acres for a municipality of 150,000 population or more. A license to mine to a municipality shall terminate at the end of 4 years from the date of issuance, unless an application for a 4 year renewal is filed and approved before the termination date.

(c)(1) The authorized officer may authorize a recognized and established relief agency of any state upon the agency's request, to take government-owned coal deposits within the state and provide the coal to localities where it is needed to supply families on the rolls of such agency who require coal for

household use but are unable to pay for that coal.

(2) Tracts shall be selected in areas assessed as acceptable for mining operations and at points convenient to supply the families in a locality. Each family shall be restricted to the amount of coal actually needed for its use, not to exceed 20 tons annually.

(3) Coal shall be taken from such tracts only by those with written authority from the relief agency. All mining shall be done pursuant to such authorization.

§3440.1–5 Compliance with Surface Mining Control and Reclamation Act.

Mining on a license to mine shall not commence without a permit issued by the Surface Mining Officer unless the operation is exempt from the permit requirements under 30 CFR 700.11.

§3440.1–6 Cancellation or forfeiture.

Any license to mine may be canceled or forfeited for violation of the Act under which the license to mine was issued, applicable Federal laws and regulations, or the terms and conditions of the license to mine.

PART 3450—MANAGEMENT OF EXISTING LEASES

Subpart 3451—Continuation of Leases—Readjustment of Terms

Sec.

3451.1 Readjustment of lease terms.
3451.2 Notification of readjusted lease terms.

Subpart 3452—Relinquishment, Cancellation, and Termination

3452.1 Relinquishment.
3452.1–1 General.
3452.1–2 Where filed.
3452.1–3 Acceptance.
3452.2 Cancellation.
3452.2–1 Cause for cancellation.
3452.2–2 Cancellation procedure.
3452.3 Termination.

Subpart 3453 – Transfers by Assignment, Sublease or Otherwise.

3453.1 Qualifications.
3453.2 Requirements.
3453.2–1 Application.
3453.2–2 Forms and statements.
3453.2–3 Filing location and fee.
3453.2–4 Bonds.
3453.2–5 Effect of partial assignment.
3453.3 Approval.
3453.3–1 Conditions for approval.
3453.3–2 Disapproval of transfers,
3453.3–3 Effective date.
3453.3–4 Extensions.

Authority: 30 U.S.C. 181 et seq.; 30 U.S.C. 351–359; 30 U.S.C. 521–531; 30 U.S.C. 1201 et seq.; 42 U.S.C. 7101 et seq.; and 43 U.S.C. 1701 et seq.

Subpart 3451—Continuation of Leases—Readjustment of Terms

§ 3451.1 Readjustment of lease terms.

(a)(1) All leases issued prior to August 4, 1976, shall be subject to readjustment at the end of the current 20-year period and at the end of each 10-year period thereafter. All leases issued after August 4, 1976, shall be subject to readjustment at the end of the first 20-year period and, if the lease is extended, each 10-year period thereafter.

(2) Any lease subject to readjustment which contains a royalty rate less than the minimum royalty prescribed in § 3473.3–2 of this title shall be readjusted to conform to the minimum prescribed in that section.

(b) If the lease became subject to readjustment of terms and conditions before August 4, 1976, but the authorized officer prior to the date neither readjusted the terms and conditions nor informed the lessee whether or not a readjustment would be made, the terms and conditions of that lease shall not be readjusted retroactively to conform to the requirements of the Federal Coal Leasing Amendments Act of 1976.

(c)(1) The authorized officer shall, prior to the expiration of the current or initial 20-year period or any succeeding 10-year period thereafter, notify the lessee of any lease which becomes subject to readjustment after June 1, 1980, whether any readjustment of terms and conditions will be made prior to the expiration of the initial 20-year period or any succeeding 10-year period thereafter. On such a lease the failure to so notify the lessee shall mean that the United States is waiving its right to readjust the lease for the readjustment period in question.

(2) In any notification that a lease will be readjusted under this subsection, the authorized officer shall prescribe when the notice of readjusted lease terms shall be transmitted to the lessee. This time shall be as soon as possible after notice that the lease shall be readjusted, but shall not be longer than 2 years after such notice. Failure to transmit the notice of readjusted lease terms in the specified period shall constitute a waiver of the right to readjust, unless the delay is caused by events beyond the control of the Department.

(d) In the notification that the lease will be readjusted, the authorized officer may require the lessee to furnish information specified in § 3422.3–4 of this title for review by the Attorney General as required by section 27(1) of the Mineral Leasing Act of 1920, as amended. If the authorized officer requests the information specified, no lease readjustment shall be effective until 30 days after the authorized officer has transmitted the required information to the Attorney General. The lease shall be subject to cancellation if the lessee fails to furnish the required information within the time allowed.

§ 3451.2 Notification of readjusted lease terms.

(a) If the notification that the lease will be readjusted did not contain the proposed readjusted lease terms, the authorized officer shall, within the time specified in the notice that the lease shall be readjusted, notify the lessee of the proposed readjusted lease terms.

(b) The notification of readjusted lease terms shall specify the procedures to be followed if the lessee objects to the proposed readjusted lease terms. The effective date of the readjusted lease shall not be affected by the filing of objections to any of the readjusted terms and conditions.

(c) The readjusted lease terms shall become effective either 60 days after the lessee is notified of them, or if the Attorney General desires to review the readjustment, 30 days after the authorized officer transmits the required information to the Attorney General, whichever is later.

(d) The lessee may appeal the decision of the authorized officer in accordance with the procedure set out in 43 CFR Part 4.

(e) The readjusted lease terms and conditions shall be effective pending the outcome of the appeal, unless the authorized officer provides otherwise. Upon the filing of an appeal, the obligation to pay royalties and rentals when due under the readjusted lease shall be suspended pending the outcome of the appeal. However, during the pendency of the appeal, royalties and rentals shall accrue under the readjusted lease terms and shall be payable if the decision is upheld on appeal, plus interest at the rate specified for late payments in 30 CFR Part 211.

Subpart 3452—Relinquishment, Cancellation and Termination

§3452.1 Relinquishment.

§3452.1–1 General.

The lessee may surrender the entire lease, a legal subdivision thereof, an aliquot part thereof (not less than 10 acres) or any bed of the coal deposit therein. A partial relinquishment shall describe clearly the surrendered parcel or coal deposits and give the exact acreage relinquished. If the authorized officer accepts the relinquishment of any coal deposits in a lease, the coal reserves shall be adjusted in accordance with 30 CFR Part 211.

§ 3452.1–2 Where filed.

A relinquishment shall be filed in triplicate by the lessee in the Bureau of Land Management State Office having jurisdiction over the lands involved (43 CFR Subpart 1821).

§3452.1–3 Acceptance.

The effective date of the lease relinquishment shall, upon approval by an authorized officer, be the date on which the lessee filed the lease relinquishment. No relinquishment shall be approved until the authorized officer determines that the relinquishment will not impair the public interest, that the accrued rentals and royalties have been

paid and that all the obligations of the lessee under the regulations and terms of the lease have been met.

§3452.2 Cancellation.

§3452.2–1 Cause for cancellation.

(a) The authorized officer, after compliance with §3452.2–2 of this title, may take the appropriate steps to institute proceedings in a court of competent jurisdiction for the cancellation of the lease if the lessee: (1) fails to comply with the provisions of the Mineral Leasing Act of 1920, as amended; (2) fails to comply with any applicable general regulations; or (3) defaults in the performance of any of the terms, covenants, and stipulations of the lease.

(b) Any lease issued before August 4, 1976, on which the lessee does not meet the diligent development requirements or any lease whenever issued on which the lessee does not meet the continued operation requirements shall be subject to cancellation in whole or in part. In deciding whether to initiate lease cancellation proceedings under this subsection, the Secretary shall not consider adverse circumstances which arise out of (1) normally foreseeable costs of compliance with requirements for environmental protection; (2) commonly experienced delays in delivery of supplies or equipment; or (3) inability to obtain sufficient sales.

§3452.2–2 Cancellation procedure.

The lessee shall be given notice of any default, breach or cause of forfeiture and be afforded 30 days to correct the default, to request an extension of time in which to correct the default, or to submit evidence showing why the lease should not be cancelled.

§3452.3 Termination.

(a) Any lease issued or readjusted after August 4, 1976, shall be terminated if the lessee does not meet the diligent development requirements.

(b) Should a lease be relinquished, cancelled or terminated for any reason, all deferred bonus payments shall be immediately payable and all rentals and royalties, including advance royalties, already paid or due, shall be forfeited to the United States.

Subpart 3453—Transfers by Assignment, Sublease or Otherwise

§3453.1 Qualifications.

(a) Leases may be transferred in whole or in part to any person, association or corporation qualified under subpart 3472 of this title to hold such leases, except as provided by §§3420.1–4(b)(1)(iv) and 3420.1–4(b)(2)(ii) of this title.

(b) Preference right lease applications may be transferred as a whole only to a person, association or corporation qualified under subpart 3472 of this title to hold a lease.

(c) Exploration licenses may be transferred in whole or in part subject to §3453.3(b) of this title.

§3453.2 Requirements.

§3453.2–1 Application.

Applications for approval of any transfer of a lease; preference right lease application or exploration license or any interest in a lease or license, whether by direct assignment, working agreement, transfer of royalty interest, sublease, or otherwise, shall be filed within 90 days from final execution.

§3453.2–2 Forms and statements.

(a) Transfers of any record title interest shall be filed in triplicate and shall be accompanied by a request for approval from the transferee.

(b) No specific form need be used for requests for approval of transfers. The request for approval shall contain evidence of the transferee's qualifications, including a statement of Federal coal lease acreage holdings. This evidence shall consist of the same showing of qualifications required of a lease applicant by subpart 3472 of this title. A single signed copy of the qualifications statement is sufficient.

(c) A separate instrument of transfer shall be filed for each lease when transfers involve record titles. When transfers to the same person, association, or corporation involving more than one lease are filed at the same time, one request for approval and one showing as to the qualifications of the transferee shall be sufficient.

(d) A single signed copy of all other instruments of transfer is sufficient, except that collateral assignments and other security or mortgage documents shall not be accepted for filing.

(e) Any transfer of a record title interest or assignment of operating rights shall be accompanied by the transferee's submission of the information specified in §3422.3–4 of this title, including the holdings of any affiliate(s) (including joint ventures) of the transfers, or a statement incorporating a prior submission of the specified information by reference to the date and lease, license, or application serial number of the submission, and containing any and all changes in holdings since the date of the prior submission.

(f) Any document of transfer which does not contain a description of all consideration or value paid or promised for the transfer shall be accompanied by a separate statement of all consideration or value, whether cash, property, future payments or any other type of consideration, paid or promised for the transfer.

(g) Information submitted to comply with subsections (e) and (f) of this section may be labeled as proprietary data and shall be so treated in accordance with the laws and regulations governing the confidentiality of such information.

§3453.2–3 Filing location and fees.

Instruments of transfer and requests for approval shall be filed in the Bureau of Land Management office having jurisdiction over the leased lands proposed for transfer (see 43 CFR subpart 1821). Each instrument of transfer shall be accompanied by a nonrefundable filing fee (see 43 CFR 3473.2).

§3453.2–4 Bonds.

(a) If a bond is required, it shall be furnished before a lease, preference right lease application or exploration license may be approved for transfer. If the original lease, preference right lease application or exploration license required the maintenance of a bond, the transferee shall submit either a written consent from the surety to the substitution of the transferee as principal or a new bond with the transferee as principal. Transfers of any part of the lease or licensed lands shall be described by legal subdivisions. Before any transfer of part of a lease or license is approved, the transferee shall submit: (1) A written statement from the surety that it agrees to the transfer and that it agrees to remain bound as to the interest retained by the lessee or licensee; and (2) a new bond with the transferee as a principal covering the portion transferred.

(b) The transferor and the surety shall continue to be responsible for the performance of any obligation under the lease, preference right lease application or exploration license until the effective date of the approval of the transfer. If the transfer is not approved, the obligation to the United States shall continue as though no such transfer had been filed for approval. After the effective date of approval, the transferee, including any sublessee, applicant or licensee, and the transferee's surety shall be responsible for all lease, application or license obligations, notwithstanding any terms of the transfer to the contrary.

§3453.2–5 Effect of partial assignment.

A transfer of full record-title to only part of the lands, or any bed of the coal deposits therein, shall segregate the transferred and retained portions into separate and distinct leases or licenses, with the retained portion keeping the original serial number. The newly segregated lease or license shall be assigned a new serial number and shall contain the same terms and conditions as the original lease or license.

§3453.3 Approval.

§3453.3–1 Conditions for approval.

(a) No transfer of a lease shall be approved if:

(1) The transferee is not qualified to hold a lease or an interest in a lease under subpart 3472 of this title or under §§3420.1–3(b)(1)(iv) and 3420.1–3(b)(2)(ii) of this title;

(2) The lease bond is insufficient;

(3) The filing fee has not been submitted;

(4) The transferee would hold the lease in violation of the acreage requirements set out in subpart 3472 of this title;

(5) The transfer would create an overriding royalty or other interest in violation of §3473.3–2 of this title;

(6) The lease account is not in good standing;

(7) The information required under §3453.2–2(e) of this title has not been submitted; or

(8) The transferee is subject to the prohibition in §3472.1–2(e) of this title.

(b) When the licensee proposes to transfer an exploration license, any other participating parties in the license shall be given the right of first refusal. If none of the participating parties wishes to assume the license, the license may be transferred if:

(1) The exploration bond is sufficient;

(2) The filing fee has been submitted; and

(3) The license account is in good standing.

(c) A preference right lease application may be transferred as a whole only to any party qualified to hold a lease under subpart 3472 of this title.

§3453.3–2 Disapproval of transfers.

(a) The authorized officer shall deny approval of a transfer if any reason why the transfer cannot be approved (listed in §3453.3–1 of this title) is not cured within the time established by the authorized officer in a decision notifying the applicant for approval why the transfer cannot be approved.

(b) The authorized officer shall not approve a transfer of a lease until 30 days after the requirements of §3422.3–4 of this title have been met.

§3453.3–3 Effective date.

A transfer shall take effect the first day of the month following its final approval by the Bureau of Land Management, or if the transferee requests in writing, the first day of the month of the approval.

§3453.3–4 Extensions.

(a) The filing of or approval of any transfer shall not alter any terms or extend any time periods under the lease, including those dealing with readjustment of the lease and the diligent development and continued operation on the lease.

(b) The filing of or approval of a transfer of an exploration or license shall not extend the term of the license beyond the statutory 2-year maximum.

PART 3460 – ENVIRONMENT

Subpart 3461 – Federal Lands Review – Unsuitability for Mining.

Sec.

3461.0–3 Authority.
3461.0–6 Policy.
3461.0–7 Scope.
3461.1 Criteria for assessing lands unsuitable for all or certain stipulated methods of coal mining.
3461.2 Underground mining exception from criteria.
3461.3 Unsuitability assessment procedures.
3461.3–1 Assessment and land use planning.
3461.3–2 Consultation on unsuitability assessments.
3461.4 Relationship of leasing to unsuitability assessment.
3461.4–1 Application of criteria on unleased lands.
3461.4–2 Application of criteria on leased lands.
3461.5 Exploration.

Subpart 3465 – Surface Management and Protection.

3465.0–1 Purpose.
3465.0–3 Authority
3465.0–7 Applicability.
3465.1 Use of surface.
3465.3 Inspections and noncompliance.
3465.3–1 Inspections.
3465.3–2 Discovery of noncompliance.
3465.3–3 Failure of lessee or holder of license to mine to act.

Authority: 30 U.S.C. 181 et seq.; 30 U.S.C. 351–359; 30 U.S.C. 521–531; 30 U.S.C. 1201 et seq.; and 43 U.S.C. 1701 et seq.

Subpart 3461—Federal Lands Review—Unsuitability for Mining

§ 3461.0–3 Authority.

(a) These regulations are issued under the authority of the statutes listed in § 3400.0–3 of this title.

(b) These regulations primarily implement:

(1) The general unsuitability criteria in section 522(a) of the Surface Mining Control and Reclamation Act of 1977 (30 U.S.C. 1272(a));

(2) The Federal lands review in section 522(b) of the Surface Mining Control and Reclamation Act of 1977 (30 U.S.C. 1272(b)); and

(3) The prohibitions against mining certain lands in section 522(e) of the Surface Mining Control and Reclamation Act of 1977 (30 U.S.C. 1272(e)).

§ 3461.0–6 Policy.

The Department shall carry out the review of Federal lands under section 522(b) of the Surface Mining Control and Reclamation Act of 1977 (30 U.S.C. 1272(b)) principally through land use planning assessments by the surface management agency regarding the unsuitability of Federal lands for all or certain stipulated methods of coal mining.

§ 3461.0–7 Scope.

Each criterion in § 3461.1 of this title uses the phrase "shall be considered unsuitable" as shorthand for "shall be considered unsuitable for all or certain stipulated methods of coal mining involving surface coal mining operations, as defined in § 3400.0–5(mm) of this title.

§ 3461.1 Criteria for assessing lands unsuitable for all or certain stipulated methods of coal mining.

(a)(1) *Criterion Number 1.* All Federal lands included in the following land systems or categories shall be considered unsuitable: National Park System, National Wildlife Refuge System, National System of Trails, National Wilderness Preservation System, National Wild and Scenic Rivers System, National Recreation Areas, lands acquired with money derived from the Land and Water Conservation Fund, National Forests, and Federal lands in incorporated cities, towns, and villages.

(2) *Exceptions.* (i) A lease may be issued within the boundaries of any National Forest if the Secretary finds no significant recreational, timber, economic or other values which may be incompatible with the lease; and (A) surface operations and impacts are incident to an underground coal mine, or (B) where the Secretary of Agriculture determines, with respect to lands which do not have significant forest cover within those National Forests west of the 100th meridian, that surface mining may be in compliance with the Multiple-Use Sustained-Yield Act of 1960, the Federal Coal Leasing Amendments Act of 1976 and the Surface Mining Control and Reclamation Act of 1977. (ii) A lease may be issued within the Custer National Forest with the consent of the Department of Agriculture as long as no surface coal mining operations are permitted.

(3) *Exemptions.* The application of this criterion to lands within the listed land systems and categories is subject to valid existing rights, and does not apply to surface coal mining operations existing on August 3, 1977. The application of the portion of this criterion applying to land proposed for inclusion in the listed systems does not apply to lands: to which substantial legal and financial commitments were made prior to January 4, 1977; on which surface coal mining operations were being conducted on August 3, 1977; or which include operations on which a permit has been issued.

(b)(1) *Criterion Number 2.* Federal lands that are within rights-of-way or easements or within surface leases for residential, commercial, industrial, or other public purposes. Federally owned surface shall be considered unsuitable.

(2) *Exceptions.* A lease may be issued, and mining operations approved, in such areas if the surface management agency determines that:

(i) All or certain types of coal development (e.g., underground mining)

will not interfere with the purpose of the right-of-way or easement; or

(ii) The right-of-way or easement was granted for mining purposes; or

(iii) The right-of-way or easement was issued for a purpose for which it is not being used; or

(iv) The parties involved in the right-of-way or easement agree, in writing, to leasing; or

(v) It is impractical to exclude such areas due to the location of coal and

method of mining and such areas or uses can be protected through appropriate stipulations.

(3) *Exemptions.* This criterion does not apply to lands: to which the operator made substantial legal and financial commitments prior to January 4, 1977; on which surface coal mining operations were being conducted on August 3, 1977; or which include operations on which a permit has been issued.

(c)(1) *Criterion Number 3.* Federal lands affected by section 522(e) (4) and (5) of the Surface Mining Control and Reclamation Act of 1977 shall be considered unsuitable. This includes lands within 100 feet of the outside line of the right-of-way of a public road or within 100 feet of a cemetery, or within 300 feet of any public building, school, church, community or institutional building or public park or within 300 feet of an occupied dwelling.

(2) *Exceptions.* A lease may be issued for lands:

(i) Used as mine access roads or haulage roads that join the right-of-way for a public road;

(ii) For which the Office of Surface Mining Reclamation and Enforcement has issued a permit to have public roads relocated;

(iii) If, after public notice and opportunity for public hearing in the locality, a written finding is made by the authorized officer that the interests of the public and the landowners affected by mining within 100 feet of a public road will be protected.

(3) *Exemptions.* The application of this criterion is subject to valid existing rights, and does not apply to surface coal mining operations existing on August 3, 1977.

(d)(1) *Criterion Number 4.* Federal lands designated as wilderness study areas shall be considered unsuitable while under review by the Administration and the Congress for possible wilderness designation. For any Federal land which is to be leased or mined prior to completion of the wilderness inventory by the surface management agency, the environmental assessment or impact statement on the lease sale or mine plan shall consider whether the land possesses the characteristics of a wilderness study area. If the finding is affirmative, the land shall be considered unsuitable, unless issuance of noncompetitive coal leases and mining on leases is authorized under the Wilderness Act and the Federal Land Policy and Management Act of 1976.

(2) *Exemption.* The application of this criterion to lands for which the Bureau of Land Management is the surface management agency and lands in designated wilderness areas in National Forests is subject to valid existing rights.

(e)(1) *Criterion Number 5.* Scenic Federal lands designated by visual resource management analysis as Class I (an area of outstanding scenic quality or high visual sensitivity) but not currently on the National Register of Natural Landmarks shall be considered unsuitable. A lease may be issued if the surface management agency determines that surface coal mining operations will not significantly diminish or adversely affect the scenic quality of the designated area.

(2) *Exemptions.* This criterion does not apply to lands: to which the operator made substantial legal and financial commitments prior to January 4, 1977; on which surface coal mining operations were being conducted on August 3, 1977; or which include operations on which a permit has been issued.

(f)(1) *Criterion Number 6.* Federal lands under permit by the surface management agency, and being used for scientific studies involving food or fiber production, natural resources, or technology demonstrations and experiments shall be considered unsuitable for the duration of the study, demonstration or experiment, except where mining could be conducted in such a way as to enhance or not jeopardize the purposes of the study, as determined by the surface management agency, or where the principal scientific user or agency gives written concurrence to all or certain methods of mining.

(2) *Exemptions.* This criterion does not apply to lands: to which the operator made substantial legal and financial commitments prior to January 4, 1977; on which surface coal mining operations were being conducted on August 3, 1977; or which include operations on which a permit has been issued.

(g)(1) *Criterion Number 7.* All districts, sites, buildings, structures, and objects of historic, architectural, archeological, or cultural significance on Federal lands which are included in or eligible for inclusion in the National Register of Historic Places, and an appropriate buffer zone around the outside boundary of the designated property (to protect the inherent values of the property that make it eligible for listing in the National Register) as determined by the surface management agency, in consultation with the Advisory Council on Historic Preservation and the State Historic Preservation Office shall be considered unsuitable.

(2) *Exceptions.* All or certain stipulated methods of coal mining may be allowed if the surface management agency determines, after consultation with the Advisory Council on Historic Preservation and State Historic Preservation Office that the direct and indirect effects of mining, as stipulated, on a property in or eligible for the National Register of Historic Places will not result in significant adverse impacts to the property.

(3) *Exemptions.* The application of this criterion to a property listed in the National Register is subject to valid existing rights, and does not apply to surface coal mining operations existing on August 3, 1977. The application of the criterion to buffer zones and properties eligible for the National Register does not apply to lands: to which the operator made substantial legal and financial commitments prior to January 4, 1977; on which surface coal mining operations were being conducted on August 3, 1977; or which include operations on which a permit has been issued.

(h)(1) *Criterion Number 8.* Federal lands designated as natural areas or as National Natural Landmarks shall be considered unsuitable.

(2) *Exceptions.* A lease may be issued and mining operation approved in an area or site if the surface management agency determines that:

(i) With the concurrence of the state, the area or site is of regional or local significance only;

(ii) The use of appropriate stipulated mining technology will result in no significant adverse impact to the area or site; or

(iii) The mining of the coal resource under appropriate stipulations will enhance information recovery (e.g., paleontological sites).

(3) *Exemptions.* This criterion does not apply to lands: to which the operator made substantial legal and financial commitments prior to January 4, 1977; on which surface coal mining operations were being conducted on August 3, 1977; or which includes operations on which a permit has been issued.

(i)(1) *Criterion Number 9.* Federally designated critical habitat for threatened or endangered plant and animal species, and habitat for Federal threatened or endangered species which is determined by the Fish and Wildlife Service and the surface management agency to be of essential value and where the presence of threatened or endangered species has been scientifically documented, shall be considered unsuitable.

(2) *Exception.* A lease may be issued and mining operations approved if, after consultation with the Fish and Wildlife Service, the Service determines that the proposed activity is not likely to jeopardize the continued existence of the listed species and/or its critical habitat.

(3) *Exemptions.* This criterion does not apply to lands: to which the operator made substantial legal and financial commitments prior to January 4, 1977; on which surface coal mining operations were being conducted on August 3, 1977; or which include operations on which a permit has been issued.

(j)(1) *Criterion Number 10.* Federal lands containing habitat determined to be critical or essential for plant or animal species listed by a state pursuant to state law as endangered or threatened shall be considered unsuitable.

(2) *Exception.* A lease may be issued and mining operations approved if, after consultation with the state, the surface management agency determines that the species will not be adversely affected by all or certain stipulated methods of coal mining.

(3) *Exemptions.* This criterion does not apply to lands: to which the operator made substantial legal and financial commitments prior to January 4, 1977; on which surface coal mining operations were being conducted on August 3, 1977; or which include operations on which a permit has been issued.

(k)(1) *Criterion Number 11.* A bald or golden eagle nest or site on Federal lands that is determined to be active and an appropriate buffer zone of land around the nest site shall be considered unsuitable. Consideration of availability of habitat for prey species and of terrain shall be included in the determination of buffer zones. Buffer zones shall be determined in consultation with the Fish and Wildlife Service.

(2) *Exceptions.* A lease may be issued if:

(i) It can be conditioned in such a way, either in manner or period of operation, that eagles will not be disturbed during breeding season; or

(ii) The surface management agency, with the concurrence of the Fish and Wildlife Service, determines that the golden eagle nest(s) will be moved.

(iii) Buffer zones may be decreased if the surface management agency determines that the active eagle nests will not be adversely affected.

(3) *Exemptions.* This criterion does not apply to lands: to which the operator made substantial legal and financial commitments prior to January 4, 1977; on which surface coal mining operations were being conducted on August 3, 1977; or which include operations on which a permit has been issued.

(l)(1) *Criterion Number 12.* Bald and golden eagle roost and concentration areas on Federal lands used during migration and wintering shall be considered unsuitable.

(2) *Exception.* A lease may be issued if the surface management agency determines that all or certain stipulated methods of coal mining can be conducted in such a way, and during such periods of time, to ensure that eagles shall not be adversely disturbed.

(3) *Exemptions.* This criterion does not apply to lands: to which the operator made substantial legal and financial commitments prior to January 4, 1977; on which surface coal mining operations were being conducted on August 3, 1977; or which include operations on which a permit has been issued.

(m)(1) *Criterion Number 13.* Federal lands containing a falcon (excluding kestrel) cliff nesting site with an active nest and a buffer zone of Federal land around the nest site shall be considered unsuitable. Consideration of availability of habitat for prey species and of terrain shall be included in the determination of buffer zones. Buffer zones shall be determined in consultation with the Fish and Wildlife Service.

(2) *Exception.* A lease may be issued where the surface management agency, after consultation with the Fish and Wildlife Service, determines that all or certain stipulated methods of coal mining will not adversely affect the falcon habitat during the periods when such habitat is used by the falcons.

(3) *Exemptions.* This criterion does not apply to lands: to which the operator made substantial legal and financial commitments prior to January 4, 1977; on which surface coal mining operations were being conducted on August 3, 1977; or which include operations on which a permit has been issued.

(n)(1) *Criterion Number 14.* Federal lands which are high priority habitat for migratory bird species of high Federal interest on a regional or national basis, as determined jointly by the surface management agency and the Fish and Wildlife Service, shall be considered unsuitable.

(2) *Exception.* A lease may be issued where the surface management agency, after consultation with the Fish and Wildlife Service, determines that all or certain stipulated methods of coal mining will not adversely affect the migratory bird habitat during the periods when such habitat is used by the species.

(3) *Exemptions.* This criterion does not apply to lands: to which the operator made substantial legal and financial commitments prior to January 4, 1977; on which surface coal mining operations were being conducted on August 3, 1977; or which include operations on which a permit has been issued.

(o)(1) *Criterion Number 15.* Federal lands which the surface management agency and the state jointly agree are fish and wildlife habitat for resident species of high interest to the state and which are essential for maintaining these priority wildlife species shall be considered unsuitable. Examples of such lands which serve a critical function for the species involved include:

(i) Active dancing and strutting grounds for sage grouse, sharp-tailed grouse, and prairie chicken;

(ii) Winter ranges most critical for deer, antelope, and elk; and

(iii) Migration corridors for elk.

A lease may be issued if, after consultation with the state, the surface management agency determines that all or certain stipulated methods of coal mining will not have a significant long-term impact on the species being protected.

(2) *Exemptions.* This criterion does not apply to lands: to which the operator made substantial legal and financial commitments prior to January 4, 1977; on which surface coal mining operations were being conducted on August 3, 1977; or which include operations on which a permit has been issued.

(p)(1) *Criterion Number 16.* Federal lands in riverine, coastal and special floodplains (100-year recurrence interval) on which the surface management agency determines that mining could not be undertaken without substantial threat of loss of life or property shall be considered unsuitable for all or certain stipulated methods of coal mining.

(2) *Exemptions.* This criterion does not apply to lands: to which the operator made substantial legal and financial commitments prior to January 4, 1977; on which surface coal mining operations were being conducted on August 3, 1977; or which include operations on which a permit has been issued.

(q)(1) *Criterion Number 17.* Federal lands which have been committed by the surface management agency to use as municipal watersheds shall be considered unsuitable.

(2) *Exception.* A lease may be issued where the surface management agency in consultation with the municipality (incorporated entity) or the responsible governmental unit determines, as a result of studies, that all or certain stipulated methods of coal mining will not adversely affect the watershed to any significant degree.

(3) *Exemptions.* This criterion does not apply to lands: to which the operator made substantial legal and financial commitments prior to January 4, 1977; on which surface coal mining operations were being conducted on August 3, 1977; or which include operations on which a permit has been issued.

(r)(1) *Criterion Number 18.* Federal lands with National Resource Waters, as identified by states in their water quality management plans, and a buffer zone of Federal lands ¼ mile from the outer edge of the far banks of the water, shall be unsuitable.

(2) *Exception.* The buffer zone may be eliminated or reduced in size where the surface management agency determines that it is not necessary to protect the National Resource Waters.

(3) *Exemptions.* This criterion does not apply to lands: to which the operator made substantial legal and financial commitments prior to January 4, 1977; on which surface coal mining operations were being conducted on August 3, 1977; or which include operations on which a permit has been issued.

(s)(1) *Criterion Number 19.* Federal lands identified by the surface management agency, in consultation with the state in which they are located, as alluvial valley floors according to the definition in § 3400.0–5(a) of this title, the standards in 30 CFR Part 822, the final alluvial valley floor guidelines of the Office of Surface Mining Reclamation and Enforcement when published, and approved state programs under the Surface Mining Control and Reclamation Act of 1977, where mining would interrupt, discontinue, or preclude farming, shall be considered unsuitable. Additionally, when mining Federal land outside an alluvial valley floor would materially damage the quantity or quality of water in surface or underground water systems that would supply alluvial valley floors, the land shall be considered unsuitable.

(2) *Exemptions.* This criterion does not apply to surface coal mining operations which produced coal in commercial quantities in the year preceding August 3, 1977, or which had obtained a permit to conduct surface coal mining operations.

(t)(1) *Criterion Number 20.* Federal lands in a state to which is applicable a criterion (i) proposed by that state, and (ii) adopted by rulemaking by the Secretary, shall be considered unsuitable.

(2) *Exceptions.* A lease may be issued when:

(i) Such criterion is adopted by the Secretary less than 6 months prior to the publication of the draft comprehensive land use plan or land use analysis, plan, or supplement to a comprehensive land use plan, for the area in which such land is included, or

(ii) After consultation with the state, the surface management agency determines that all or certain stipulated methods of coal mining will not adversely affect the value which the criterion would protect.

(3) *Exemptions.* This criterion does not apply to lands: to which the operator made substantial legal and financial commitments prior to January 4, 1977; on which surface coal mining operations were being conducted on August 3, 1977; or which include operations on which a permit has been issued.

§ 3461.2 Underground mining exemption from criteria.

(a) Federal lands with coal deposits that would be mined by underground mining methods shall not be assessed as unsuitable where there would be no surface coal mining operations, as defined in § 3400.0–5 of this title, on any lease, if issued.

(b) Where underground mining will include surface operations and surface impacts on Federal lands to which a criterion applies, the lands shall be assessed as unsuitable unless the surface management agency finds that a relevant exception or exemption applies.

§ 3461.3 Unsuitability assessment procedures.

§ 3461.3–1 Assessment and land use planning.

(a)(1) Each of the unsuitability criteria shall be applied to all coal lands with development potential identified in the comprehensive land use plan or land use analysis. For areas where 1 or more unsuitability conditions are found and for which the authorized officer of the surface management agency could otherwise regard coal mining as a likely use, the exceptions and exemptions for each criterion may be applied.

(2) The authorized officer of the surface management agency shall describe in the comprehensive land use plan or land use analysis the results of the application of each unsuitability criterion, exception and exemption. The authorized officer of the surface management agency shall state in the plan or analysis those areas which could be leased only subject to conditions or stipulations to conform to the application of the criteria or exceptions. Such areas may ultimately be leased provided that these conditions or stipulations are contained in the lease.

(b)(1) The authorized officer shall make his assessment on the best available data that can be obtained given the time and resources available to prepare the plan. The comprehensive land use plan or land use analysis shall include an indication of the adequacy and reliability of the data involved. Where either a criterion or exception (when under subsection (a) of this section the authorized officer decides that application of an exception is appropriate) cannot be applied during the land use planning process because of inadequate or unreliable data, the plan or analysis shall discuss the reasons therefor and disclose when activity planning, or, in the case of criterion 19, prior to approval of a permit, the data needed to make an assessment with reasonable certainty would be generated. The authorized officer shall make every effort within the time and resources available to collect adequate and reliable data which would permit the application of criterion 19 in the land use or activity planning process. When those data are obtained, the authorized officer shall make public his assessment on the application of the criterion or, if appropriate, the exception and the reasons therefor and allow opportunity for public comment.

(2) No lease tract shall be analyzed in a final regional lease sale environmental impact statement prepared under § 3420.4–5 of this title without significant data material to the application to the tract of each criterion described in § 3461.1 of this title, except, where necessary, criterion 19. If the data are lacking for the application of a criterion or exception to only a portion of the tract, and if the authorized officer determines that it is likely that stipulations in the lease or permit to conduct surface coal mining operations could avoid any problems which may result from subsequent application of the criterion or exception, such tract may be included and analyzed in the regional lease sale environmental impact statement.

(c) Any unsuitability assessments which result either from a designation or a termination of a designation of Federal lands as unsuitable by the Office of Surface Mining Reclamation and Enforcement, or from changes warranted by additional data acquired in the activity planning process, may be made without formally revising or amending the comprehensive land use plan or analysis.

§ 3461.3–2 Consultation on unsuitability assessments.

(a) Prior to adopting a comprehensive land use plan or land use analysis which assesses Federal lands as unsuitable for coal mining, the Secretary or other surface management agency shall complete the consultation set out in §§3420.1–6 and 3420.1–7 of this title.

(b) When consultation or concurrence is required in the application of any criterion or exception in § 3461.1 of this title, the request for advice or concurrence, and the reply thereto, shall be in writing. Unless another period is provided by law, the authorized officer shall specify that the requested advice, concurrence or nonconcurrence be made within 30 days.

(c) When the authorized officer does not receive a response either to a request for concurrence which is required by this subpart but not by law, or to consultation within the specified time, he or she may proceed as though concurrence had been given or consultation had occurred.

§ 3461.4 Relationship of leasing to unsuitability assessment.

§ 3461.4–1 Application of criteria on unleased lands.

(a) The unsuitability criteria shall only be applied, prior to lease issuance, to all lands leased after July 19, 1979.

(b) The unsuitability criteria shall be initially applied either:

(1) During land use planning or the environmental assessment conducted for a specific lease application; or

(2) During land use planning under the provisions of §3420.1–4 of this title.

§ 3461.4–2 Application of criteria on leased lands.

The unsuitability criteria shall not be applied to leased lands.

§ 3461.5 Exploration.

(a) Assessment of any area as unsuitable for all or certain stipulated methods of coal mining operations pursuant to section 522 of the Surface Mining Control and Reclamation Act of 1977 (30 U.S.C. 1272) and the regulations of this subpart does not prohibit exploration of such area under subpart 3410 of this title and under 30 CFR 211.2(a).

(b) An application for an exploration license on any lands assessed as unsuitable for all or certain stipulated methods of coal mining shall be reviewed by the Bureau of Land Management to ensure that exploration does not harm any value for which the area has been assessed as unsuitable.

Subpart 3465—Surface Management and Protection

§ 3465.0-1 Purpose.

This subpart establishes rules for the management and protection of the surface of leased Federal lands when coal deposits are developed.

§ 3465.0-3 Authority.

These regulations are issued under the authority of the statutes listed in § 3400.0-3 of this title.

§ 3465.0-7 Applicability.

This subpart applies to leases and licenses to mine, issued by the Bureau of Land Management for the development of Federal coal.

§ 3465.1 Use of surface.

(a) The operator shall use only that part of the surface area included in his lease or license to mine that has been included in an approved resource recovery and protection plan and mining permit (30 CFR Parts 211 and 741).

(b) Separate leases, permits, or rights-of-way under the appropriate provisions in Title 43 of the Code of Federal Regulations are required for the installation of power generation plants or commercial or industrial facilities on the lands in the lease or license to mine or for the use of mineral materials or timber from the land in the lease or license to mine.

(c) Other land uses under other authorities may be allowed on an area in a lease or license to mine provided there is no unreasonable conflict and that neither the mining operation nor the other use is jeopardized by the presence of the other.

§ 3465.2 Inspections and noncompliance.

§ 3465.2-1 Inspections.

The authorized officer, Mining Supervisor, or their authorized representitives shall have the right to enter lands under a lease or license to mine to inspect without advance notice or a search warrant, upon presentation of appropriate credentials, to determine whether the activities and conditions are in compliance with the applicable laws, regulations, notices and orders, terms and conditions of leases, licenses to mine or permits, and the requirements of the approved mining plan.

§ 3465.2-2 Discovery of noncompliance.

(a) Upon discovery of activities or conditions that are not in compliance with the terms of a lease or license to mine, or with an approved permit (30 CFR 741), but that do not pose a serious and imminent danger to the public or to resources and environmental quality, the authorized officer shall refer the matter to the Surface Mining Officer for remedial action, or to the Mining Supervisor on matters of exploration outside the permit area.

(b) Upon discovery of activities or conditions that are not in compliance with the terms of a lease, license to mine, or with an approved permit and that do pose a serious and imminent danger to the health and safety of the public or to resources and environmental quality, the authorized officer may order the immediate cessation of the activities or conditions provided that the Surface Mining Officer is immediately informed of the issuance of any such emergency cessation order.

§ 3465.2-3 Failure of lessee or holder of license to mine to act.

Failure of a lessee or the holder of a license to mine to comply with an immediate cessation order issued under §3465.3-2(b) or with a written notice of noncompliance issued by the Surface Mining Officer in accordance with 30 CFR Part 211 or 30 CFR Chapter VII, Subchapter D, or by the Mining Supervisor in accordance with 30 CFR Part 211, shall be grounds for suspension of the permit and may be grounds for cancellation of the license to mine, or in accordance with subpart 3452 of this title, the lease.

PART 3470 – COAL MANAGEMENT PROVISIONS AND LIMITATIONS

Subpart 3471 – Coal Management Provisions and Limitations.

Sec.

3471.1 Land description requirements.
3471.1-1 Land description in application.
3471.1-2 Land description in lease.
3471.2 Effect of land transactions.
3471.2-1 Disposal of land with a reservation of minerals.
3471.2-2 Effect of conveyance to state or local entity.
3471.3 Cancellation or forfeiture.
3471.3-1 Protection of bona fide purchaser.
3471.3-2 Sale of underlying interests.
3471.4 Future interest, acquired lands.

Subpart 3472—Lease Qualification Requirements

3472.1 Qualified applicants and bidders.
3472.1-1 Special leasing qualifications.
3472.1-2 Acreage limitations.
3472.2 Filing of qualification statements.
3472.2-1 Sole party in interest statement.
3472.2-2 Contents of qualification statement.
3472.2-3 Signature of applicant.
3472.2-4 Special qualifications, heirs, and devisees (estates).
3472.2-5 Special qualifications, public bodies.

Subpart 3473—Fees, Rentals, and Royalties

3473.1 Payments.
3473.1-1 Form of payment.
3473.1-2 Where paid.
3473.1-3 When paid.
3473.2 Fees.
3473.2-1 General fee provisions.
3473.2-2 Exemptions from fee provisions.
3473.3 Rentals and royalties.
3473.3-1 Rentals.
3473.3-2 Royalties.
3473.4 Suspension of operation, production, and payment obligations.

Subpart 3474—Bonds

3474.1 Bonding requirements
3474.2 Type of bond required.

Subpart 3475 – Lease Terms.

3475.1 Lease form.
3475.2 Duration of leases.
3475.3 Dating of leases.
3475.4 Land description.
3475.5 Diligent development and continued operation.
3475.6 Logical mining unit.

Authority: 30 U.S.C. 181 et seq. and 30 U.S.C. 351–359.

Subpart 3471—Coal Management Provisions and Limitations

§ 3471.1 Land description requirements.

§ 3471.1-1 Land description and coal deposit in application.

(a) Any application for a lease, lease modification, or license to mine shall include a complete and accurate description of the lands for which the lease, lease modification, or license to mine is desired.

(b) If the land has been surveyed under the public land rectangular survey system, each application shall describe the land by legal subdivision (section, township, and range), or aliquot part thereof (but not less than 10 acres).

(c) Where protraction diagrams have been approved and the effective date has been published in the Federal Register, the application for land shown on such protraction diagrams and filed on or after the effective date shall contain a description of the land according to the section, township, and range shown on the approved protraction diagrams.

(d)(1) If the land has not been surveyed on the ground and is not shown on the records as covered by protraction diagrams, the application shall describe the land by metes and bounds, giving courses and distances between the successive angle points on the boundary of the tract, in cardinal

directions except where the boundaries of the land are in irregular form, and connected by courses and distances to an official corner of the public land surveys. In Alaska, the description of unsurveyed land shall be connected by courses and distances to either an official corner of the public land surveys or to a triangulation station established by an agency of the United States such as the Geological Survey, the National Oceanic and Atmospheric Administration, or the International Boundary Commission, if the record position is available to the general public.

(2)(i) If the land is acquired land in a non-public land state which has not been surveyed under the rectangular system of public land surveys, the land shall be described as in the deed or other document by which the United States acquired title to the lands or minerals.

(ii) If the land constitutes less than the entire tract acquired by the United States, it shall be described by courses and distances between successive angle points on its boundary tying by course and distance into an identifiable point listed in the description in the deed or other document by which the United States acquired title to the land.

(iii) If the description in the deed or other document by which the United States acquired title to the land does not include the courses and distance between the successive angle points on the boundary of the desired tract, the description in the application shall be expanded to include such courses and distances.

(iv) The application shall be accompanied by a map on which the land is clearly marked showing its location with respect to the administrative unit or project of which it is a part. It is not necessary to submit a map if the land has been surveyed under the rectangular system of public land surveys, and the land description can be conformed to that system.

(v) If an acquisition tract number has been assigned by the acquiring agency to the tract, a description by tract number will be accepted.

(vi) Any accreted land not described in the deed to the United States shall be described by metes and bounds, giving courses and distances between the successive angle points on the boundary of the tract, and connected by courses and distances to an angle point on the perimeter of the acquired tract to which the accretions belong.

§ 3471.1-2 Land description in lease.

(a) All unsurveyed lands in a public land survey system state shall have a cadastral survey performed at Federal Government expense before a lease or license to mine may be issued, except for areas covered by a skeleton survey, i.e. Utah and Alaska, and the lease when issued shall be described by legal subdivision (section, township, and range), or aliquot part thereof (but no less than 10 acres).

(b) If the land is acquired land in a non-public land state, the land in the lease shall be described in the same manner provided for lease applications under § 3471.1-1(d)(2) of this title.

§ 3471.2 Effect of land transactions.

§ 3471.2-1 Disposal of land with a reservation of minerals.

(a) Where the lands included in a lease or license to mine have been or may be disposed of with reservation of the coal deposits, a lessee or the holder of a license to mine must comply fully with the law under which the reservation was made. See, among other laws, the Acts of March 3, 1909 (34 Stat. 844; 30 U.S.C. 81); June 22, 1910 (35 Stat. 583; 30 U.S.C. 83–85); December 29, 1916, as amended (39 Stat. 862; 43 U.S.C. 291–301); June 17, 1949 (63 Stat. 200); June 21, 1949 (63 Stat. 214; 30 U.S.C. 54); March 8, 1922 (42 Stat. 415; 48 U.S.C. 376–377); and October 21, 1976 (90 Stat. 2759; 43 U.S.C. 1719).

(b) Any sale or conveyance of acquired lands by the agency having jurisdiction shall be subject to any lease or license to mine previously issued under the Mineral Leasing Act for Acquired Lands.

(c) Leases on acquired lands outstanding on August 7, 1947, and covering lands subject to the Mineral Leasing Act for Acquired Lands may be exchanged for new leases to be issued under that act.

(d) When: (1) the coal is to be mined by other than underground mining techniques, (2) the surface of the land is owned by a qualified surface owner, and (3) the lease is issued after August 3, 1977, the lessee shall comply with the terms of the written consent of the qualified surface owner not inconsistent with Federal and state mined land reclamation laws and regulations.

§ 3471.2-2 Effect of conveyance to State or local entity.

(a) If the United States has conveyed the title to, or otherwise transferred control of the land surface containing the coal deposits to (1) any state or political subdivision, agency, or its instrumentality, (2) a college, any other educational corporation, or association, or (3) to a charitable or religious corporation or association, the transferee shall be notified by certified mail of the application for the license to mine or lease, or the scheduling of a lease sale. The transferee shall be given a reasonable period of time within which to suggest any stipulations necessary for the protection of existing surface improvements or uses to be included in the license or lease and state the supporting facts, or to file any objections to its issuance and state the supporting facts.

(b) Opposition by the state or local entity is not a bar to issuance of the license to mine or lease for the reserved minerals in the lands. (See, however, §3461.1(b).) In each case, the final determination on whether to issue the license to mine or lease is based on the best interests of the public.

§3471.3–1 Protection of bona fide purchaser.

(a) The Secretary's right to cancel or forfeit a lease for any violation shall not adversely affect the title or interest of a bona fide purchaser of any lease or any interest therein. A bona fide purchaser must be a person, association, or corporation qualified to hold such lease or interest, even though the holdings of the party or parties from which the lease or interest therein was acquired or their predecessor(s) in title (including the original lessee of the United States), may have been cancelled or forfeited for any such violation.

(b) Any party to any proceedings with respect to a violation of any provision of the mineral leasing laws may be dismissed promptly as a party by showing that he/she holds and acquired his/her interest as a bona fide purchaser without having violated any provisions of the mineral leasing laws.

(c) If a party waives his or her rights under the lease, or if such rights are suspended by order of the Secretary pending a decision, rental payments and time counted against the term of the lease shall be suspended as of the first day of the month following the filing of the waiver or the Secretary's suspension until the first day of the month following the final decision in the proceeding or the revocation of the waiver or suspension.

§3471.3–2 Sale of underlying interests.

If, in any proceeding to cancel or forfeit a lease or any interest therein acquired in violation of any of the provisions of the mineral leasing laws, the lease or interest therein is cancelled or forfeited, and if there are valid options to acquire the lease or an interest therein that are not subject to cancellation, forfeiture, or compulsory disposition, this lease or interest therein shall be sold to the highest responsible qualified bidder by competitive bidding, in a manner similar to that provided for in the offering of leases by competitive bidding, subject to all outstanding valid interests and options. If less than the whole interest in the lease or interest therein is cancelled or forfeited, the partial interest shall be sold in the same way. If no satisfactory offer is obtained as a result of the competitive offering of

a whole or partial interest, it may be sold by other methods that the authorized officer finds appropriate. However, the terms shall not be less favorable to the Government than those of the best competitive bid received.

§ 3471.4 Future interest, acquired lands.

An application to lease lands in which the United States has a future interest filed more than 2 years prior to the date of the vesting in the United States of the interest in the coal shall be rejected. Any application for a future interest lease outstanding at the time of the vesting in the United States of the present possessory interest in the coal shall not lapse, but shall continue to be treated under subpart 3425 of this title. (See 43 CFR 3472.1–2(g).)

Subpart 3472—Lease Qualification Requirements

§ 3472.1 Qualified applicants and bidders.

A lease may be issued only to (a) citizens of the United States; (b) associations of citizens organized under the laws of the United States or of any state thereof, which are authorized to hold such interests by the statute under which they are organized and by the instrument establishing their association; (c) corporations organized under the laws of the United States or of any state thereof, including a company or corporation operating a common carrier railroad; and (d) public bodies, including municipalities.

§ 3472.1-1 Special leasing qualifications.

(a) Each applicant or bidder for a lease shall furnish a signed statement showing that, with the area applied or bid for, the applicant or bidder's interests in leases and lease applications, held directly or indirectly, do not exceed in the aggregate the acreage limitation in §3472.1–3 of this title.

(b) A lease shall not be issued to a minor but may be issued to a legal guardian or trustee on behalf of a minor.

(c) Every company or corporation operating a common carrier railroad shall make a statement that it needs the coal for which it seeks a lease solely for its own railroad use; that it operates main or branch lines in the state in which the lands involved are located; that the aggregate acreage in the leases and applications in which it holds an interest, directly or indirectly, does not exceed 10,240 acres; and that it does not hold more than one lease for each 200 miles of its railroad lines served or to be served from such coal deposits. This last requirement excludes spurs or switches, branch lines built to connect the leased coal with the railroad, and parts of the railroad operated mainly by power not produced by steam.

(d) Aliens may not acquire or hold any direct or indirect interest in leases, except that they may own or control stock in corporations holding leases if the laws of their country do not deny similar or like privileges to citizens of the United States. If any appreciable percentage of stock of a corporation is held by aliens who are citizens of a country denying similar or like privileges to United States citizens, that corporation's application or bid for a lease shall be rejected, and that corporation's lease shall be subject to cancellation.

(e) After August 4, 1986, no lease shall be issued to any applicant or bidder and no existing lease shall be transferred to any party that holds and has held for 10 years any lease from which coal is not being produced, except as authorized under the advance royalty payment provisions of 30 CFR Part 211, in commercial quantities as that term is defined in 30 CFR Part 211.

(f) In order to qualify for a lease on acquired lands set apart for military and naval purposes, a governmental entity shall show that it produces electrical energy for sale to the public and that it is located in the state where the lands subject to the application or bid are located.

(g) Any applicant for a lease for lands in which the United States has a future interest shall submit documentation that he or she holds, in fee or by lease, the present interest in the coal deposit subject to the application.

§ 3472.1-2 Acreage limitations.

(a)(1) No person, association, or corporation, or any subsidiary, affiliate, or person controlled by or under common control with such person, association, or corporation shall take, hold, own, or control at one time Federal coal leases, lease or lease modification applications, or bids on more than 46,080 acres in any one state and in no case on more than 100,000 acres in the United States.

(2) No person, association, or corporation holding, owning, or controlling leases, lease or lease modification applications or bids (individually or through any subsidiary, affiliate, or person under common control) on more than 100,000 acres in the United States on August 4, 1976, shall be required to relinquish any lease or lease application held on that date. However, it shall not be permitted to hold any additional interests in any further leases or lease applications until such time as its holdings, ownership, or control of leases or applications has been reduced below 100,000 acres within the United States.

(b)(1) In computing acreage held, owned or controlled, the accountable acreage of a party holding, owning or controlling an undivided interest in a lease shall be the party's proportionate part of the total lease acreage. Any subsidiary, affiliate or person controlled by or under common control with any corporation, person or association holding, owning or controlling a Federal coal lease shall be charged with lease acreage to the same extent as such corporation, person or association. The accountable acreage of a party holding, owning or controlling an interest in a corporation or association shall be that party's proportionate part of the acreage held, owned or controlled by such corporation or association. However, no party shall be charged with its pro rata share of any acreage held, owned or controlled by any corporation or association unless that party is the beneficial owner of more than 10 percent of the stock or other instruments of ownership or control of such corporation or association.

(2) On acquired lands, if the United States owns only a fractional interest in the coal resources of the lands involved, only that part of the total acreage involved in the lease, proportionate to the extent of ownership by the United States of the coal resources, shall be charged as acreage holdings. The acreage embraced in a future interest lease is not to be charged as acreage holdings until the lease for the future interest takes effect.

§ 3472.2 Filing of qualification statements.

§ 3472.2-1 Sole party in interest statement.

Every applicant or bidder for a lease or license to mine shall submit to the Bureau of Land Management State Office having jurisdiction over the lands in the application or subject to the bid (43 CFR Subpart 1821) at the time of filing the application or bid a signed statement that the applicant is the sole party in interest in the application or bid, and the lease or license to mine, if issued. If the applicant or bidder is or will not be the sole party in interest, the applicant or bidder shall set forth the names of the other interested parties in the application or bid. A separate or joint statement shall be signed by them and by the applicant or bidder setting forth the nature and extent of the interest of each in the application or bid, the nature of the agreement between them, if oral, and a copy of such agreement if written. Such separate or joint statement of interest and written agreement, if any, or a statement of the nature of such agreement, if oral, shall accompany the application or bid. All interested parties shall furnish evidence of their qualifications to hold such interest in the lease or license to mine including a statement regarding knowledge of written consent from any qualified surface owner for the area involved (43 CFR Part 3427).

§ 3472.2-2 Contents of qualification statement.

(a) If the applicant or bidder is an individual, he shall submit a signed statement setting forth his citizenship with each application or bid for a license to mine or lease.

(b) If the applicant or bidder is an association or partnership, the application or bid shall be accompanied by a certified copy of the articles of association or partnership, together with a statement showing (1) that the association or partnership is authorized to hold a lease or license to mine; (2) that the member or partner executing the lease or license to mine is authorized to act on behalf of the association or partnership in such matters; (3) the names and addresses of all members owning or controlling more than 10 percent of the association or partnership and their citizenship and holdings.

(c) If the applicant or bidder for a lease or license to mine is a corporation, it shall submit statements showing:

(1) The state of incorporation;

(2) That the corporation is authorized to hold leases or licenses to mine;

(3) The names of the officers authorized to act on behalf of the corporation;

(4) The percentage of the corporation's voting stock and all of the stock owned by aliens or those having addresses outside of the United States; and

(5) The name, address, citizenship and acreage holdings of any stockholder owning or controlling 10 percent or more of the corporate stock of any class. If more than 10 percent of the stock is owned or controlled by or on behalf of aliens, or persons who have addresses outside of the United States, the corporation shall provide their names and addresses, the amount of stock held by each such person, and to the extent known to the corporation or which can be reasonably ascertained by it, the facts as to the citizenship of each such person. Applications on behalf of a corporation executed by other than an officer named under paragraph (c)(3) of this section shall be accompanied by proof of the signatory's authority to execute the instrument. The applicant shall submit the same information as is required in the preceding paragraph for any of its corporate stockholders holding, owning or controlling 10 percent or more of its stock of any class.

(d) To qualify as a small business for the purpose of bidding on any tract to be offered as part of a special opportunity lease sale for small businesses, the bidder shall submit evidence demonstrating qualification under 13 CFR 121.

(e) Where there is a legal guardian or trustee, the following shall be provided:

(1) A copy of the court order or other document authorizing the guardian or trustee to act as such and to fulfill in behalf of the ward or beneficiary all obligations of the lease or other obligations arising thereunder; the person submitting any such document shall in some manner indicate its authenticity;

(2) A statement by the guardian or trustee as to his or her citizenship and holdings (of acreage in Federal coal leases) in any capacity; i.e., individually and for the benefit of any person; and

(3) A statement by each ward and beneficiary as to his or her citizenship and holdings; if the ward or beneficiary is a minor, the statement shall be executed for the minor by the guardian or trustee, as appropriate.

(f) The Department reserves the right to request any supplementary information that is needed to accredit acreage under §3472.1–3 of this title.

(g) Any applicant or bidder who has previously filed a qualification statement may, if it certifies that the prior statement remains complete, current and accurate, submit a serial number reference to the record and office where the prior statement is filed.

§ 3472.2-3 Signature of applicant.

(a) Every application or bid for a lease or license to mine shall be signed by the applicant or bidder or by its attorney-in-fact. If executed by an attorney-in-fact the application or bid shall be accompanied by the power of attorney and the applicant's own statement as to citizenship and acreage holdings unless the power of attorney specifically authorizes and empowers the attorney-in-fact to make such statement or to execute all statements which may be required under these regulations.

(b) If the application or bid is signed by an attorney-in-fact or agent, it shall be accompanied by:

(i) a statement over the signature of the attorney-in-fact or agent; and

(ii) a separate statement personally signed by the applicant or bidder stating whether there is any agreement or undertaking, written or oral, whereby the attorney-in-fact or agent has or is to receive any interest in the lease, if issued.

§ 3472.2–4 Special qualifications, heirs, and devisees (estates).

(a) If an applicant or bidder for a license to mine or a lease dies before the license to mine or lease is issued, the license or lease shall be issued: if the estate has not been probated, to the executor or administrator of the estate; if probate has been completed, or is not required, to the heirs or devisees; and if their are minor heirs or devisees, to their legal guardian or trustee.

(b) The lease or license to mine shall not issue until the following information has been filed:

(1) Where probate of the estate has not been completed:

(i) evidence that the person who acts as executor or administrator has the authority to act in that capacity and to act on the application or bid;

(ii) evidence that the heirs or devisees are the heirs or devisees of the deceased applicant or bidder, and are the only heirs or devisees of the deceased; and

(iii) a statement over the signature of each heir or devisee concerning citizenship and holdings.

(2) Where the executor or administrator has been discharged or no probate proceedings are required: (i) a certified copy of the will or decree of distribution, if any, and if not, a statement signed by the heirs that they are the only heirs of the applicant or bidder, and citing the provisions of the law of the deceased's last domicile showing that no probate is required; and (ii) a statement over the signature of each of the heirs or devisees with reference to citizenship and holdings, except that if the heir or devisee is a minor, the statement shall be over the signature of the guardian or trustee.

§ 3472.2-5 Special qualifications, public bodies.

(a) To qualify to bid for a lease on a tract offered for sale under §3420.1–3 of this title, a public body shall submit:

(1) Evidence of the manner in which it is organized;

(2) Evidence that it is authorized to hold a lease;

(3) A definite plan as described in §3420.1–3(b) to produce energy within 10 years of issuance of the prospective lease solely for its own use or for sale to its members or customers (except for short-term sales to others); and

(4) Evidence that the definite plan has been duly authorized by its governing body.

(b) To obtain a license to mine, a municipality shall submit with its application:

(1) Evidence of the manner in which it is organized;

(2) Evidence that it is authorized to hold a license to mine; and

(3) Evidence that the action proposed has been duly authorized by its governing body.

(c) To qualify to bid for a lease on a tract of acquired land set apart for military or naval purposes, a governmental entity shall submit:

(1) Evidence of the manner in which it is organized, including the State in which it is located;

(2) Evidence that it is authorized to hold a lease;

(3) Evidence that the action proposed has been duly authorized by its own governing body; and

(4) Evidence that it is producing electricity for sale to the public in the state where the lands to be leased are located.

(d) If the material required in paragraphs (a), (b), or (c) of this section has previously been filed, a reference to the serial number of the record in which it has been filed, together with a statement as to any amendments, shall be accepted.

Subpart 3473—Fees, Rentals, and Royalties

§ 3473.1 Payments.

§3473.1–1 Form of payment.

Payments shall be made in cash, or by money order, personal check, certified check, bank draft, or bank cashier's check payable to the Bureau of Land Management or Minerals Management Service, as appropriate.

§ 3473.1–2 Where paid.

(a) Payments for all licenses to mine shall be paid to the Bureau of Land Management State Office having jurisdiction over the land (43 CFR Subpart 1821).

(b) Rentals for nonproducing leases shall be paid to the Bureau of Land Management State Office having jurisdiction over the land (43 CFR subpart 1821), unless terms of the lease provide otherwise.

(c) Rentals and royalties on producing leases shall be paid to the Mining Supervisor for the area in which the lands under lease are situated.

§ 3473.1–3 When paid.

First year's rental for preference right leases shall be remitted at the time of filing the applications. First year's rental for competitive leases shall be payable when required by decision. Thereafter, rental for all leases shall be paid in accordance with the lease provisions.

§ 3473.2 Fees.

§ 3473.2–1 General fee provisions.

(a)(1) A filing fee of $250.00 shall accompany each application for a lease, exploration license or lease modification.

(2) Each original application or any renewal application for a license to mine shall be accompanied by a $10.00 filing fee.

(3) A filing of fee of $50 per lease shall accompany each instrument of transfer of a lease or an interest therein.

(b) The fee shall be retained as a service charge even if the application is rejected or withdrawn in whole or in part. An application not accompanied by the filing fee will not be accepted for filing; it will be returned to the applicant without action.

§ 3473.2–2 Exemptions from fee provisions.

No filing fee is required for:

(a) An application for a license to mine filed by a relief agency as described in subpart 3440 of this title; or

(b) Preference right lease applications.

§ 3473.3 Rentals and royalties.

§ 3473.3–1 Rentals.

(a) The annual rental per acre or fraction thereof on any lease issued or readjusted after the promulgation of this subpart shall not be less than $3. The amount of the rental will be specified in the lease.

(b) Until a lease issued before August 4, 1976, is readjusted, the rental paid for any year shall be credited against the royalties for that year.

(c) On leases issued or readjusted after August 4, 1976, rental payments shall not be credited against royalties.

(d) Rentals paid for any lease year commencing prior to the effective date of the first lease readjustment occurring after August 4, 1976, shall be credited against royalties for that year. Rentals due and payable for any lease year commencing on or after the effective date of the readjustment shall not be credited against royalties.

§ 3473.3–2 Royalties.

(a)(1) Royalty rates shall be determined on an individual case basis prior to lease issuance. For competitive leases, initial royalty rates shall be set out in the notice of lease sale.

(2) A lease shall require payment of a royalty of not less than 12½ percent of the value of the coal removed from a surface mine.

(3) A lease shall require payment of a royalty of not less than 8 percent of the value of the coal removed from an underground mine, except that the Minerals Management Service may determine a lesser amount, but in no case less than 5 percent if conditions warrant.

(4) The value of coal removed from a mine is defined for royalty purposes in 30 CFR 211.63.

(b) The Mining Supervisor shall have the discretion, upon the request of the lessee, to authorize the payment of an advance royalty in lieu of continued operation for any particular year in accordance with 30 CFR Part 211.

(c) An overriding royalty interest, production payment or similar interest that exceeds 50 percent of royalty first payable to the United States under the Federal lease, or when added to any other overriding royalty interest exceeds that percentage, except those created in order to finance a mine, shall not be created by a Federal lease transfer or surface owner consent. However, when an interest in a Federal lease or operating agreement is transferred, the transferor may retain an overriding royalty in excess of the above limitation if he/she shows that he/she has made substantial investments for improvements directly related to exploration, development and mining on the lands covered by the transfer that would justify a higher payment.

(d) The Secretary, whenever he/she determines it necessary to promote development or finds that the lease cannot be successfully operated under its terms, may waive, suspend or reduce the rental, or reduce the royalty but not advance royalty, on an entire leasehold, or on any deposit, tract or portion thereof, except that in no case shall the royalty be reduced to zero percent. An application for any of these benefits shall be filed with the Mining Supervisor in accordance with 30 CFR Part 211.

§3473.4 Suspension of operations, production, and payment obligations.

(a) Application by a lessee for relief from any operating and producing requirements of a lease shall be filed in triplicate in the office of the Mining Supervisor in accordance with 30 CFR Part 211.

(b) The term of any lease shall be extended by adding thereto any period of suspension of all operations and production during such term in accordance with any direction or assent of the Mining Supervisor.

Subpart 3474—Bonds

§ 3474.1 Bonding requirements.

(a) Before a lease may be issued, one of the following forms of lease bond shall be furnished:

(1) Corporate surety bonds;

(2) Cash bond; or

(3) Personal lease bonds secured by negotiable U.S. bonds of a par value equal to the amount of the required surety bond, together with a power of attorney executed on a form approved by the Director.

(b) The applicant or bidder shall file the lease bond in the proper office within 30 days of receiving notice. The lease bond shall be furnished on a form approved by the Director.

(c) The bonding obligation for a new lease may be met by an adjustment to an existing LMU bond covering the other leases within the same LMU.

§3474.2 Type of bond required.

(a) A lease bond for each lease conditioned upon compliance with all terms and conditions of the lease, shall be furnished in the amount determined by the authorized officer. Except as provided in §3474.3(b) of this title, that bond shall not cover reclamation within a permit area.

(b) For exploration licenses, a bond must be furnished in accordance with §3410.3–4 of this title.

(c)(1) Upon approval of an LMU including more than 1 Federal lease, the lessee may, in lieu of individual lease bonds, furnish and maintain an LMU bond covering all of the terms and conditions of every Federal lease within the LMU, except for reclamation within the mining permit area unless the condition in §3474.3(b) of this title

applies. All LMU bonds shall be furnished in the amount recommended by the Mining Supervisor.

(2) When an LMU is terminated, the LMU bond shall terminate. Individual leases remaining from the LMU shall be covered by lease bonds in the manner prescribed by the Mining Supervisor.

§ 3474.3 Bond conversions.

(a) The authorized officer shall notify those leaseholders who have nationwide or statewide bonds at the time of issuance of this subpart of the requirement to secure a separate lease bond for each lease in the amount determined by the authorized officer to be proper and necessary.

(b)(1) In setting or adjusting individual lease bond amounts, the authorized officer shall assure that the lease bond covers reclamation within a permit area where the Surface Mining Officer, because of the absence of a cooperative agreement governing Federal lands within that state, notifies the authorized officer that the lease bond should cover that reclamation.

(2) After consultation with the Surface Mining Officer, the authorized officer may release the amount of any outstanding bond which is related to, and is not necessary to secure, the performance of reclamation within a permit area.

§ 3474.4 Qualified sureties.

A list of companies holding certificates of authority from the Secretary of the Treasury under the Act of July 30, 1947 (6 U.S.C. 6–14) as acceptable sureties on Federal bonds is published annually in the **Federal Register.**

§ 3474.5 Default.

When the surety makes payment to the Government of any indebtedness due under a lease, the face amount of the surety bond and the surety's liability thereunder shall be reduced by the amount of such payment.

§ 3474.6 Termination of the period of liability.

The authorized officer shall not consent to termination of the period of liability under the lease bond unless an acceptable substitute bond has been filed or until all terms and conditions of the lease have been fulfilled.

Subpart 3475—Lease Terms

§ 3475.1 Lease form.

Leases shall be issued on a standard form approved by the Director. The authorized officer may modify those provisions of the standard form which are not required by statute or regulations and may add such additional stipulations and conditions as he/she deems appropriate.

§ 3475.2 **Duration of leases.**

Leases shall be issued for a period of 20 years and so long thereafter as the condition of continued operation is met. If the condition of continued operation is not met the lease shall be cancelled as provided in § 3452.2 of this title.

§ 3475.3 **Dating of leases.**

(a) Leases will be dated and made effective the first day of the month following the date signed by the authorized officer. However, upon receipt of a prior written request, the authorized officer may date a lease to be effective on the first day of the month in which it is signed.

(b) Future interest leases shall become effective on the date of vesting of title to the minerals in the United States as stated in the lease.

§ 3475.4 **Land description.**

Compliance with § 3471.1 of this title is required.

§ 3475.5 Diligent development and continued operation.

In accordance with 30 CFR Part 211, each lease shall require:

(a) Diligent development; and

(b) Either (1) continued operation except when operations under the lease are interrupted by strikes, the elements or casualties not attributable to the lessee, or (2) in lieu thereof, when the Secretary determines that the public interest will be served, payment of an advanced royalty.

§ 3475.6 Logical mining unit.

(a) Criteria for approving or directing establishment of an LMU shall be developed and applied by the Minerals Management Service in accordance with 30 CFR 211.80.

(b) When a lease is included in an LMU with other Federal leases or with interests in non-Federal coal deposits, the terms and conditions of the Federal lease or leases shall be amended so that they are consistent with or are superseded by the requirements imposed on the LMU of which it has become a part.

(c) The holder of any lease issued or readjusted between May 7, 1976, and the effective date of this regulation, whose lease provides by its own terms that it is considered to be an LMU, may request removal of this provision from any such lease. Such request shall be submitted to the authorized officer.

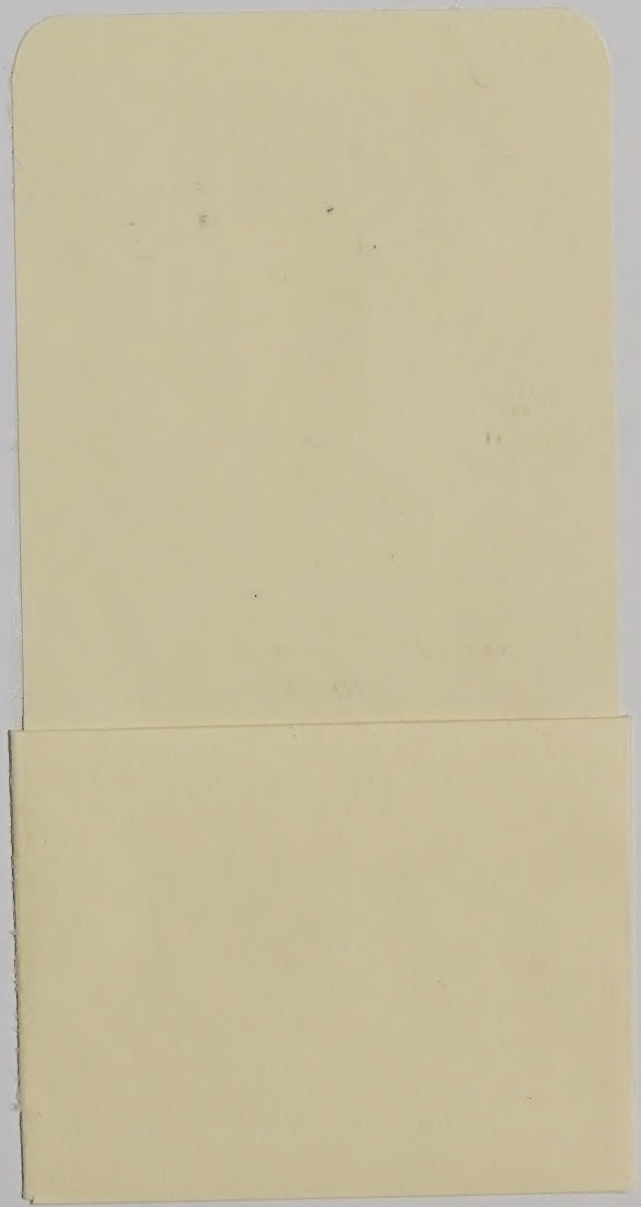
James G. Watt,
Secretary of the Interior.
July 12, 1982.

[FR Doc. 82-20681 Filed 7-29-82; 8:45 am]

GPO 837 - 735

Bureau of Land Management
Library
Bldg. 50, Denver Federal Center
Denver, CO 80225

Bureau of Land Management
Library
Bldg. 50, Denver Federal Center
Denver, CO 80225



DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[Circular No. 2509]

43 CFR Part 1780

Cooperative Relations; Amendment Extending Terms of Advisory Committee Members

Under the authority of the Federal Advisory Committee Act (5 U.S.C. Appendix 1) and the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1701 et seq.), Subpart 1784, Part 1780, Group 1700, Subchapter A, Chapter II, Subtitle B of Title 43 of the Code of Federal Regulations is amended as set forth below.

PART 1780—COOPERATIVE RELATIONS

§ 1784.3 [Amended]

1. Section 1784.3 is amended by changing in the second sentence of paragraph (b) the figure "1982" where it appears the second time to the figure "1983" and the figures "1983" and "1984" to the figures "1984" and "1985", respectively.

Frank A. DuBois,
Acting Assistant Secretary of the Interior.
August 2, 1982.

[FR Doc. 82-21478 Filed 8-6-82; 8:45 am]

Published in 47 F.R. 34389, August 9, 1982 - Effective September 8, 1982
Circular Distribution List

GPO 836-842

Analysis and Review of Regulations," and has been determined to be neither major nor significant. As this rulemaking makes no changes to the Interim Rule, A gulatory Evaluation has not been epared. Vessels complying with SOLAS 74 will meet these requirements without additional costs. The Interim Rule being reaffirmed by this document was published before the effective date of the Regulatory Flexibility Act (94 Stat. 1165); however, this rule should not have a significant economic impact on a substantial number of small entities.

List of Subjects in 33 CFR Part 164

Coast Guard, Marine safety, Navigation (water).

PART 164—NAVIGATION SAFETY REGULATIONS

Accordingly, the "Interim Final Rule," is hereby adopted without any changes, as set forth below.

§ 164.37 Equipment; Vessels of 10,000 gross tons or more.

* * * * *

(b) On each tanker of 10,000 gross tons or more that is subject to Section 5 of the Port and Tanker Safety Act of 1978 (46 U.S.C. 391a), the dual radar system required by this part must have a short range capability and a long range ability; and each radar must have north features consisting of a play that is stabilized in azimuth.

(46 U.S.C. 391a; 49 CFR 1.46(n)(4))

Dated: July 13, 1982.

B. F. Hollingsworth,

Rear Admiral, U.S. Coast Guard, Chief, Office of Marine Environment and Systems.

[FR Doc. 82-21267 Filed 8-6-82; 8:45 am]

BILLING CODE 4910-14-M

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[Circular No. 2509]

43 CFR Part 1780

Cooperative Relations; Amendment Extending Terms of Advisory Committee Members

AGENCY: Bureau of Land Management, Interior.

ACTION: Final rulemaking.

SUMMARY: This final rulemaking amends recently adopted changes in the length of terms to be served by citizens pointed to the Bureau of Land gement's many district advisory ns. Its effect is to prolong by one year the terms of all persons appointed in 1982 to the councils.

EFFECTIVE DATE: September 8, 1982.

ADDRESS: Any suggestions or inquiries should be addressed to: Director (150), Bureau of Land Management, 1800 C Street NW., Washington, D.C. 20240.

FOR FURTHER INFORMATION CONTACT: Teddy W. Roe, (202) 343-2054.

SUPPLEMENTARY INFORMATION: On February 12, 1982, the Secretary of the Interior published in the Federal Register (47 FR 6428) his intention to place appointments to the Bureau of Land Management's district advisory councils on staggered 1-, 2- and 3-year terms ending December 31 of 1982, 1983 and 1984, respectively.

Due to delays in the appointing process, there is a need to advance by one year the termination of all terms. Under this rulemaking the terms will end on December 31 of 1983, 1984 and 1985 instead of ending in 1982, 1983 and 1984 as provided in the existing regulations.

The change made by this proposed rulemaking pertains only to those district advisory councils with 10 or more members. The exception, the 15-member California Desert District Advisory Council, has already been appointed and is currently operating.

This final rulemaking makes an administrative change in the terms of the members of 1982 Advisory Councils appointed in 1982 and will have an insignificant effect on the public. Therefore, the change is being made as a final rulemaking. All other provisions of the final rulemaking of February 12, 1982, remain unchanged.

It is hereby determined that this rulemaking does not constitute a major Federal action significantly affecting the quality of the human environment and that no detailed statement pursuant to section 102(2)(C) of the National Environmental Policy Act of 1969 (42 U.S.C. 4332(2)(C)) is required.

The Department of the Interior has determined that this document is not a major rule under Executive Order 12291 and will not have a significant economic effect on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 602 et seq.).

The principal author of this final rulemaking is Teddy W. Roe of the Office of Congressional Affairs, assisted by the staff of the Office of Legislation and Regulatory Management, Bureau of Land Management.

List of Subjects in 43 CFR Part 1780

Administrative practice and procedure, Advisory committees, Public lands.

Under the authority of the Federal Advisory Committee Act (5 U.S.C. Appendix 1) and the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1701 et seq.), Subpart 1784, Part 1780, Group 1700, Subchapter A, Chapter II, Subtitle B of Title 43 of the Code of Federal Regulations is amended as set forth below.

Frank A. DuBois,

Acting Assistant Secretary of the Interior.

August 2, 1982.

PART 1780—COOPERATIVE RELATIONS

§ 1784.3 [Amended]

1. Section 1784.3 is amended by changing in the second sentence of paragraph (b) the figure "1982" where it appears the second time to the figure "1983" and the figures "1983" and "1984" to the figures "1984" and "1985", respectively.

[FR Doc. 82-21478 Filed 8-6-82; 8:45 am]

BILLING CODE 4310-84-M

FEDERAL EMERGENCY MANAGEMENT AGENCY

44 CFR Part 70

[Docket No. FEMA-5909]

Larimer County, Colorado; Letter of Map Amendment Under National Flood Insurance Program

AGENCY: Federal Emergency Management Agency.

ACTION: Final rule, map correction.

SUMMARY: The Federal Emergency Management Agency (FEMA) published a list of communities for which maps identifying Special Flood Hazard Areas have been published. This list included Larimer County, Colorado. It has been determined by the Associate Director, State and Local Programs and Support, after acquiring additional flood information and after further technical review of the Flood Insurance Rate Map for Larimer County, Colorado, that certain property is not within the Special Flood Hazard Area.

This map amendment, by establishing that the subject property is not within the Special Flood Hazard Area, removes the requirement to purchase flood insurance for that property as a condition of Federal or federally-related financial assistance for construction or acquisition purposes.

EFFECTIVE DATE: August 9, 1982.

FOR FURTHER INFORMATION CONTACT: Mr. Robert G. Chappell, P.E., Chief, Engineering Branch, Natural Hazards

Library

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

43 CFR Part 2800

[Circular No. 2510]

Rights-of-Way, Principles and Procedures; Amendment of Right-of-Way Regulations

Under the authority of Title V of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1761–1771), Part 2800, Group 2800, Subchapter B, Chapter II of Title 43 of the Code of Federal Regulations is amended as follows:

PART 2800—RIGHTS-OF-WAY, PRINCIPLES AND PROCEDURES

§ 2800.0-5 [Amended]

1. Section 2800.0–5 is amended by:

a. Revising paragraph (l) to read:

* * * * *

(l) "Designated right-of-way corridor" means a parcel of land either linear or areal in character that has been identified by law, by Secretarial Order, through the land use planning process or by other management decision as being a preferred location for existing and future right-of-way grants and suitable to accommodate more than 1 type of right-of-way or 1 or more rights-of-way which are similar, identical or compatible; and

* * * * *

b. Adding a new paragraph (n) to read:

* * * * *

(n) "Transportation and utility corridor" means a parcel of land, without fixed limits or boundaries, that is being used as the location for 1 or more transportation or utility right-of-way.

§ 2801.1-1 [Amended]

2. Section 2801.1–1(h) is amended by:

a. Removing from the fifth sentence the phrase "no longer than is";

b. Removing paragraph (h)(1) in its entirety;

c. Renumbering paragraph (h)(2) as paragraph (h)(1) and revising it to read:

* * * * *

(h) * * *

(1) Public purpose served;

* * * * *

d. Renumbering paragraph (h)(3) as paragraph (h)(2) and amending it by adding at the end the word "and";

e. Removing paragraph (h)(4) in its entirety;

f. Renumbering paragraph (h)(5) as paragraph (h)(3) and amending it by removing the word "; and" at the end and adding a period; and

g. Removing paragraph (h)(6) in its entirety.

§ 2802.1 [Amended]

3. Section 2802.1 is amended by removing the second sentence in its entirety.

§ 2802.5 [Amended]

4. Section 2802.5 is amended by:

a. Revising paragraph (a)(1) to read:

(a)(1) Required to reimburse the United States for the processing, monitoring or other costs provided for in § 2803.1–1 of this title

* * * * *

b. Removing paragraph (a)(2) in its entirety; and

c. Renumbering paragraph (a)(3) as paragraph (a)(2).

§ 2803.1-2 [Amended]

5. Section 2803.1–2 is amended by adding a new paragraph (f) to read:

* * * * *

(f) Upon the holder's written request, annual rentals, regardless of the amount, may be paid in advance. Such advance payments shall be made subject to the right of the authorized officer to adjust and collect additional rentals or refund overpayments when warranted by changes in fair market value.

§ 2803.4 [Amended]

6. Section 2803.4(b) is amended by removing the phrase "is unwilling, unable or",

§ 2803.6-1 [Amended]

7. Section 2803.6–1(b) is amended by removing from the first sentence the phrase "or are directed by the authorized officer".

§ 2803.6-5 [Amended]

8. Section 2803.6–5(a) is amended by removing the last sentence in its entirety.

§ 2806.1 [Amended]

9. Section 2806.1 is amended by:

a. Amending paragraph (b) by revising the first sentence to read:

* * * * *

b. Any existing transportation and utility corridor that is capable of accommodating an additional compatible right-of-way may be designated as a right-of-way corridor by the authorized officer without further review as required in § 2806.2 of this title. * * *; and

c. Removing paragraph (c) in its entirety.

§ 2806.2 [Amended]

10. Section 2806.2 is amended by removing the phrase "designations of" and replacing it with the phrase "of designated".

§ 2806.2-1 [Amended]

11. Section 2806.2–1 is amended by:

a. Revising paragraph (a) to read:

(a) The designation of a right-of-way corridor shall be by decision of the authorized officer. A land use plan or plan amendment which contains the designation of a right-of-way corridor(s) meets the notification requirements of this section.; and

* * * * *

b. Amending paragraph (b) by removing from the first sentence the phrase "utility transportation".

James G. Watt,
Secretary of the Interior.
July 12, 1982.

[FR Doc. 82-24138 Filed 9-1-82; 8:45 am]

Published in 47 F.R. 38696, September 2, 1982 - Effective October 4, 1982.

Circular Distribution List

GPO 837 - 021

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

43 CFR Part 2800

[Circular No. 2510]

Rights-of-Way, Principles and Procedures; Amendment of Right-of-Way Regulations

AGENCY: Bureau of Land Management, Interior.

ACTION: Final rulemaking.

SUMMARY: This final rulemaking further eliminates needless, burdensome and counterproductive provisions contained in the existing right-of-way regulations for grants made under Title V of the Federal Land Policy and Management Act of 1976. This final rulemaking is the result of further study of the existing regulations made in an effort to reduce the paperwork burden on the using public and from analysis of the comments received from the public suggesting changes in the regulations.

EFFECTIVE DATE: October 4, 1982.

ADDRESS: Inquiries or suggestions should be sent to: Director (330), Bureau of Land Management, 1800 C Street NW., Washington, D.C. 20240.

FOR FURTHER INFORMATION CONTACT: Leon Kabat, (202) 343–5441, or Robert C. Bruce, (202) 343–8735.

SUPPLEMENTARY INFORMATION: The proposed rulemaking, making further amendments to the existing regulations in 43 CFR Part 2800—Rights-of-Way, Principles and Procedure—was published in the Federal Register on April 8, 1982, (47 FR 15284). Comments were invited for a 60-day period during which time a total of 36 comments was received. Nearly all of the comments were a combination of views on Part 2800 and Part 2880 and as a result the comments are treated as the same for both rulemakings. The comments came from the following sources: 23 from companies, 6 from associations, 6 from Federal agencies and 1 from a State government.

The comments were nearly universal in their support for the efforts of the Bureau of Land Management in reducing the paperwork burden on the using public, with specific support for this rulemaking that represents the second step in the Bureau's effort to make the right-of-way regulations less burdensome. Specific comments will be discussed in connection with the section to which they refer.

Section 2800.0–5

The comments were strong in their endorsement of the change made by the proposed rulemaking in the definition of the term "right-of-way corridor" to "designated right-of-way corridor." The comments noted that this change clarified the meaning of the term and was a better reflection of the Congressional intent to minimize adverse environmental impacts and the proliferation of separate rights-of-way by wholesale designation of right-of-way corridors. The final rulemaking adopts the language of the proposed rulemaking with the correction of a misspelled word.

The comments also strongly supported the addition of the term "transportation and utility corridor" made by the proposed rulemaking. However, the comments expressed the view that the definition was unnecessarily restrictive and recommended that it be amended. The main concern expressed by the comments was that a right-of-way corridor would, in most instances, need to be wider than existing rights-of-way if it were to accommodate additional right-of-way users. After careful review of the proposed changes, the final rulemaking has been amended to meet the objections raised in the comments.

Finally, several of the comments were concerned that the use of right-of-way corridors may become mandatory in obtaining right-of-way grants in the future. While corridors are the preferred locations for rights-of-way, there is no intent on the part of the Bureau of Land Management that all right-of-way grants be confined to designated corridors. While industry's concern with the concept of right-of-way corridors is appreciated, it is a mandate of the Federal Land Policy and Management Act of 1976 "to minimize environmental impacts and the proliferation of separate rights-of-way." The Bureau will work with affected users in the adoption of a right-of-way corridor program that will meet the needs of industry and protect the public lands to the greatest extent possible.

Section 2801.1

The comments on the changes made by the proposed rulemaking in this section were generally favorable to the removal of unnecessary language, but there was some disagreement as to what provisions were unnecessary. The comments were concerned about the removal of the language calling for consideration of land use plans, project financing and limitations imposed by State and Federal law. The review of the comments led to the conclusion that the final rulemaking should adopt the proposed rulemaking without change. Even though language concerning land use plans has been removed, it is a basic requirement for all land use decisions made concerning the public lands and will be included as part of the consideration for determining if a right-of-way grant should or should not be made. Project financing and limitations imposed by State and Federal law are items that are duplicative of the two items preceding them in paragraph (h) and are accordingly deleted.

Section 2802.1

A few comments objected to the removal of the examples of casual use made by the proposed rulemaking in this section. One comment expressed the view that the removal of the examples led to a standard that was too vague to promote and ensure environmental protection of the public lands. The examples which were deleted by the proposed rulemaking and by the final rulemaking are only four of many possible types of casual uses. The section, when combined with the definition of the term "casual use" that appears in § 2800.0–5(m), makes clear what is meant and the examples are not needed and, indeed, may confuse the issue.

Section 2802.4

A number of comments raised questions concerning the revision of this section made by the proposed rulemaking. The questions were directed to such issues as the effective date of a grant, rental charges and when they were effective and when a right-of-way grant became effective if an appeal were made. After careful review of the comments and the issues raised, the final rulemaking deletes the revision made by the proposed rulemaking and the language of the existing regulations continues in effect.

Section 2802.5

The comments on this section expressed the feeling that the changes made by the proposed rulemaking were not fair or equitable to those applicants who obtain the right to use the public lands for right-of-way purposes prior to such use. This special procedure, including the changes made by the proposed rulemaking, is provided as an incentive for those pre-Federal Land Policy and Management Act unauthorized users to file their applications within a four-year period after the effective date of the regulations. The hoped-for filing would reduce the number of unauthorized uses

and place the right-of-way users in a rental paying status. The special procedure is only applicable to pre-Federal Land Policy and Management Act unauthorized users, and if applications are not filed prior to July 31, 1984, then those uses, as well as all others, will be treated as a trespass. The final rulemaking adopts the changes made by the proposed rulemaking with the only changes being those needed to conform this rulemaking to the changes in numbering made by the previous amendment to this section.

Section 2803.1–2

Several comments made the point that the proposed rulemaking was based on the incorrect premise that rents could only increase. The final rulemaking corrects this error by adding words that allow for a refund of any overpayments.

Section 2803.4

The few comments received on this section and the changes made by the proposed rulemaking questioned that temporary use permits should be given the same status as right-of-way grants where the question of termination or suspension is concerned. The comments expressed the view that a temporary use permit was a privilege and the Secretary of the Interior should retain greater discretion in its revocation than in the case of a right-of-way grant. After considering this issue, the final rulemaking adopts the language of the proposed rulemaking without change. Further consideration will be given to the issues raised by the comments.

Section 2803.6–1

The two comments on this section questioned the amendment made by the proposed rulemaking. While agreeing that the wording of the existing regulations went too far, they suggested word changes other than that made by the proposed rulemaking. The changes suggested by the comments have not been adopted and the final rulemaking adopts the amendment made by the proposed rulemaking.

Section 2803.6–5

Three comments on the change made to this section by the proposed rulemaking recommended that the deleted language be retained. The deleted language contradicts the provisions of § 2801.1–1(j) requiring the right-of-way grant contain the terms of its renewability. The deletion removes the conflict created by the contradiction. The final rulemaking adopts the change made by the proposed rulemaking, without change.

Section 2806.1

All of the comments on this section were opposed to the deletion by the proposed rulemaking of the requirement that a right-of-way corridor designation be published in the Federal Register. The change, when considered with the provisions of § 2806.2–1(b), gives the authorized officer discretion to take those steps he/she deems appropriate to notify the public of the designation of a right-of-way corridor. This will allow publication in the Federal Register if that is determined appropriate. The final rulemaking adopts the provisions of the proposed rulemaking without change.

Section 2806.2–1

The comments on this section urged that the consultation requirements for designation of a right-of-way corridor deleted by the proposed rulemaking be retained. These requirements are unnecessary and redundant; the land use planning process has full and adequate provision for consultation with appropriate agencies, State and local governments and all parts of the interested public. The final rulemaking makes no change in the proposed rulemaking.

The principal author of this final rulemaking is Leon Kabat, Division of Rights-of-Way, assisted by the staff of the Office of Legislation and Regulatory Management, Bureau of Land Management.

The Department of the Interior has determined that this document is not a major rule under Executive Order 12291 and will not have a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 et seq.).

The changes made by this final rulemaking are applicable to all entities who apply for a right-of-way grant or temporary use permit on the public lands. The changes made by the final rulemaking will reduce the regulatory burden on all entities, regardless of size.

The information collection requirements contained in 43 CFR Part 2800 have been approved by the Office of Management and Budget under 44 U.S.C. 3507 and assigned clearance number 1004– ———.

List of Subjects in 43 CFR Part 2800

Administrative practice and procedure, Communications, Electric power, Highways and roads, Pipelines, Public lands—rights-of-way.

Under the authority of Title V of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1761–1771), Part 2800, Group 2800, Subchapter B, Chapter II of Title 43 of the Code of Federal Regulations is amended as follows:

Dated: August 12, 1982.

Garrey E. Carruthers,

Assistant Secretary of the Interior.

PART 2800—RIGHTS-OF-WAY, PRINCIPLES AND PROCEDURES

§ 2800.0–5 [Amended]

1. Section 2800.0–5 is amended by:

a. Revising paragraph (l) to read:

* * * * *

(l) "Designated right-of-way corridor" means a parcel of land either linear or areal in character that has been identified by law, by Secretarial Order, through the land use planning process or by other management decision as being a preferred location for existing and future right-of-way grants and suitable to accommodate more than 1 type of right-of-way or 1 or more rights-of-way which are similar, identical or compatible; and

* * * * *

b. Adding a new paragraph (n) to read:

* * * * *

(n) "Transportation and utility corridor" means a parcel of land, without fixed limits or boundaries, that is being used as the location for 1 or more transportation or utility right-of-way.

§ 2801.1–1 [Amended]

2. Section 2801.1–1(h) is amended by:

a. Removing from the fifth sentence the phrase "no longer than is";

b. Removing paragraph (h)(1) in its entirety;

c. Renumbering paragraph (h)(2) as paragraph (h)(1) and revising it to read:

* * * * *

(h) * * *

(1) Public purpose served;

* * * * *

d. Renumbering paragraph (h)(3) as paragraph (h)(2) and amending it by adding at the end the word "and";

e. Removing paragraph (h)(4) in its entirety;

f. Renumbering paragraph (h)(5) as paragraph (h)(3) and amending it by removing the word "; and" at the end and adding a period; and

g. Removing paragraph (h)(6) in its entirety.

§ 2802.1 [Amended]

3. Section 2802.1 is amended by removing the second sentence in its entirety.

§ 2802.5 [Amended]

4. Section 2802.5 is amended by:

a. Revising paragraph (a)(1) to read:

Library

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

43 CFR Part 2880

[Circular No. 2511]

Rights-of-Way Under the Mineral Leasing Act; Amendments to Oil and Gas Right-of-Way Regulations

Under the authority of section 28 of the Mineral Leasing Act of 1920, as amended (30 U.S.C. 185), Part 2880, Group 2800, Subchapter B, Chapter II of Title 43 of the Code of Federal Regulations is amended as set forth below.

PART 2880—RIGHTS-OF-WAY UNDER THE MINERAL LEASING ACT

1. Paragraph (c) of § 2882.1 is revised to read as follows:

§ 2882.1 [Amended]

* * * * *

(c) No right-of-way applications processing work, other than that incurred in the processing of applications for permits for temporary use of public lands in furtherance of the filing of an application and preapplication guidance under paragraph (b) of this section, shall be undertaken by the authorized officer prior to the filing of an application together with an advance payment as required by § 2803.1–1 of this title. Such processing work includes, but is not limited to, special studies such as environmental analyses, environmental impact statements, engineering surveys, resource inventories and detailed land use or record analyses.

* * * * *

2. Section 2883.1–2 is revised to read:

§ 2883.1–2 Rental payments.

Holders of right-of-way grants and temporary use permits issued under this part shall make rental payments in accordance with § 2803.1–2 of this title, except that the provisions of § 2803.1–2(c) of this title shall not apply.

§ 2883.6–1 [Amended]

3. Section 2883.6–1(a)(1) is amended by removing the phrase "is unwilling, unable or".

4. Section 2883.7 is revised to read:

§ 2883.7 Change in Federal jurisdiction or disposal of lands.

(a) Where a right-of-way grant or temporary use permit administered under these regulations traverses Federal lands that are transferred to another Federal agency, administration of the right-of-way shall, at the discretion of the authorized officer, be assigned to the acquiring agency unless such assignment would diminish the rights of the holder.

(b) Where a right-of-way grant or temporary use permit traverses Federal lands that are transferred out of Federal ownership, the transfer of the lands shall, at the discretion of the authorized officer, either include an assignment of the right-of-way, or be made subject to the right-of-way or the United States may reserve unto itself the lands encumbered by the right-of-way.

5. Section 2883.8 is revised to read:

§ 2883.8 Restoration of Federal lands.

Within a reasonable time after termination, revocation or cancellation of a right-of-way grant, the holder shall, unless directed otherwise in writing by the authorized officer, remove such structures and improvements and restore the site to a condition satisfactory to the authorized officer. If the holder fails to remove all such structures and improvements within a reasonable period, as determined by the authorized officer, they shall become the property of the United States, but the holder shall remain liable for the cost of removal of the structures and improvements and for restoration of the site.

Dated: August 12, 1982.

Garrey E. Carruthers,

Assistant Secretary of the Interior.

[FR Doc. 82–24139 Filed 9–1–82; 8:45 am]

Published in 47 F.R. 38806, September 2, 1982 - Effective October 4, 1982.

Circular Distribution List

(a)(1) Required to reimburse the United States for the processing, monitoring or other costs provided for in § 2803.1–1 of this title

* * * * *

b. Removing paragraph (a)(2) in its entirety; and

c. Renumbering paragraph (a)(3) as paragraph (a)(2).

§ 2803.1–2 [Amended]

5. Section 2803.1–2 is amended by adding a new paragraph (f) to read:

* * * * *

(f) Upon the holder's written request, annual rentals, regardless of the amount, may be paid in advance. Such advance payments shall be made subject to the right of the authorized officer to adjust and collect additional rentals or refund overpayments when warranted by changes in fair market value.

§ 2803.4 [Amended]

6. Section 2803.4(b) is amended by removing the phrase "is unwilling, unable or",

§ 2803.6–1 [Amended]

7. Section 2803.6–1(b) is amended by removing from the first sentence the phrase "or are directed by the authorized officer".

§ 2803.6–5 [Amended]

8. Section 2803.6–5(a) is amended by removing the last sentence in its entirety.

§ 2806.1 [Amended]

9. Section 2806.1 is amended by:

a. Amending paragraph (b) by revising the first sentence to read:

* * * * *

b. Any existing transportation and utility corridor that is capable of accommodating an additional compatible right-of-way may be designated as a right-of-way corridor by the authorized officer without further review as required in § 2806.2 of this title. * * *; and

c. Removing paragraph (c) in its entirety.

§ 2806.2 [Amended]

10. Section 2806.2 is amended by removing the phrase "designations of" and replacing it with the phrase "of designated".

§ 2806.2–1 [Amended]

11. Section 2806.2–1 is amended by:

a. Revising paragraph (a) to read:

(a) The designation of a right-of-way corridor shall be by decision of the authorized officer. A land use plan or plan amendment which contains the designation of a right-of-way corridor(s) meets the notification requirements of this section.; and

* * * * *

b. Amending paragraph (b) by removing from the first sentence the phrase "utility transportation".

[FR Doc. 82–24138 Filed 9–1–82; 8:45 am]

BILLING CODE 4310–84–M

---

43 CFR Part 2880

[Circular No. 2511]

Rights-of-Way Under the Mineral Leasing Act; Amendments to Oil and Gas Right-of-Way Regulations

AGENCY: Bureau of Land Management, Interior.

ACTION: Final rulemaking.

SUMMARY: This final rulemaking further eliminates needless, burdensome and counterproductive provisions contained in the existing right-of-way regulations for grants issued under the Mineral Leasing Act of 1920, as amended.

EFFECTIVE DATE: October 4, 1982.

ADDRESS: Inquiries or suggestions should be sent to: Director (330), Bureau of Land Management, 1800 C Street NW., Washington, D.C. 20240.

FOR FURTHER INFORMATION CONTACT: Leon Kabat, (202) 343–5441, or Robert C. Bruce, (202) 343–8735.

SUPPLEMENTARY INFORMATION: The proposed rulemaking making further amendments to the existing regulations in 43 CFR Part 2880—Rights-of-Way Under the Mineral Leasing Act—was published in the Federal Register on April 8, 1982 (47 FR 15286). Comments were invited for a 60-day period during which time a total of 36 comments were received. Nearly all of the comments were a combination of views on Parts 2800 and 2880 and as a result the comments are treated as the same for both rulemakings. The comments came from the following sources: 23 from companies, 6 from associations, 6 from Federal agencies and one from a State government.

The comments were nearly unanimous in their praise of the efforts of the Bureau of Land Management in reducing the paperwork burden on the using public, with specific support for the changes made by this second in a series of rulemakings designed to make the right-of-way regulations less burdensome. Specific comments will be discussed in connection with the section to which they refer. Only those sections that were the subject of comments will be discussed.

Section 2882.1

The comments on this section were generally satisfied with the change made by the proposed rulemaking but requested some minor changes that would clarify the revised section. The revised section is clearly an improvement over the existing language and while there may be differences about the precise way the section might be stated, its meaning seems clear. Therefore, after careful consideration of the views expressed in the comments, the final rulemaking adopts the language of the proposed rulemaking without change.

Section 2882.3

All of the comments on the revision of this section made by the proposed rulemaking raised several questions that were of concern. The questions were directed to such issues as the effective date of a grant, rental charges and when they were effective and when a right-of-way grant became effective if an appeal were made. After careful review of the comments and the issues raised, the final rulemaking deletes the revision made by the proposed rulemaking and the language of the existing regulations continues in effect.

Section 2883.7

The comments on the revision of this section made by the proposed rulemaking, while generally agreeing that the change clarified the situation, raised several questions concerning the revision and suggested some minor changes. Several of the suggested changes conflicted with other proposed changes and tended to complicate the revised section. The revision made by the proposed rulemaking was adopted without change by the final rulemaking.

Section 2883.8

The comments strongly favored the revision of this section made by the proposed rulemaking. Some of the comments expressed the desire that the term "reasonable time" be replaced by a definitely established time period. The term "reasonable time" is one that allows the authorized officer needed flexibility to arrive at an acceptable time period with the holder of the right-of-way grant. Further, the question of what is a reasonable time is subject to appeal if a party feels that it is inadequate. Another concern raised in the comments was the deletion of the language covering the procedure for release of a right-of-way holder's bond. This legitimate concern is answered by the language in the revised section that the holder remains liable for costs

connected with removal and restoration of the site. The revision made by the proposed rulemaking is adopted without change by the final rulemaking.

The principal author of this final rulemaking is Leon Kabat, Division of Rights-of-Way, assisted by the staff of the Office of Legislation and Regulatory Management, Bureau of Land Management.

The Department of the Interior has determined that this document is not a major rule under Executive Order 12291 and will not have a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 et seq.).

The changes made by this final rulemaking are applicable to all entities who apply for a right-of-way grant or temporary use permit on the public lands. The changes made by the final rulemaking will reduce the regulatory burden on all entities, regardless of size.

The information collection requirements contained in 43 CRF Part 2880 have been approved by the Office of Management and Budget under 44 U.S.C. 3507 and assigned clearance number 1004-- ———.

List of Subjects in 43 CFR Part 2880

Administrative practice and procedure, Common carriers, Oil and gas industry, Pipelines, Public lands—rights-of-way.

Under the authority of section 28 of the Mineral Leasing Act of 1920, as amended (30 U.S.C. 185), Part 2880, Group 2800, Subchapter B, Chapter II of Title 43 of the Code of Federal Regulations is amended as set forth below.

Dated: August 12, 1982.

Garrey E. Carruthers,

Assistant Secretary of the Interior.

PART 2880—RIGHTS-OF-WAY UNDER THE MINERAL LEASING ACT

1. Paragraph (c) of § 2882.1 is revised to read as follows:

§ 2882.1 [Amended]

* * * * *

(c) No right-of-way applications processing work, other than that incurred in the processing of applications for permits for temporary use of public lands in furtherance of the filing of an application and preapplication guidance under paragraph (b) of this section, shall be undertaken by the authorized officer prior to the filing of an application together with an advance payment as required by § 2603.1–1 of this title. Such processing work includes, but is not limited to, special studies such as environmental analyses, environmental impact statements, engineering surveys, resource inventories and detailed land use or record analyses.

* * * * *

2. Section 2883.1–2 is revised to read:

§ 2883.1–2 Rental payments.

Holders of right-of-way grants and temporary use permits issued under this part shall make rental payments in accordance with § 2803.1–2 of this title, except that the provisions of § 2803.1–2(c) of this title shall not apply.

§ 2883.6–1 [Amended]

3. Section 2883.6–1(a)(1) is amended by removing the phrase "is unwilling, unable or".

4. Section 2883.7 is revised to read:

§ 2883.7 Change in Federal jurisdiction or disposal of lands.

(a) Where a right-of-way grant or temporary use permit administered under these regulations traverses Federal lands that are transferred to another Federal agency, administration of the right-of-way shall, at the discretion of the authorized officer, be assigned to the acquiring agency unless such assignment would diminish the rights of the holder.

(b) Where a right-of-way grant or temporary use permit traverses Federal lands that are transferred out of Federal ownership, the transfer of the lands shall, at the discretion of the authorized officer, either include an assignment of the right-of-way, or be made subject to the right-of-way or the United States may reserve unto itself the lands encumbered by the right-of-way.

5. Section 2883.8 is revised to read:

§ 2883.8 Restoration of Federal lands.

Within a reasonable time after termination, revocation or cancellation of a right-of-way grant, the holder shall, unless directed otherwise in writing by the authorized officer, remove such structures and improvements and restore the site to a condition satisfactory to the authorized officer. If the holder fails to remove all such structures and improvements within a reasonable period, as determined by the authorized officer, they shall become the property of the United States, but the holder shall remain liable for the cost of removal of the structures and improvements and for restoration of the site.

[FR Doc. 82–24139 Filed 9–1–82; 8:45 am]

BILLING CODE 4310–84–M

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[Circular No. 2512]

43 CFR Parts 5440, 5450 and 5460

Sales of Forest Products; Amendment to Procedures

Under the authority of the Act of August 28, 1937 (43 U.S.C. 1181(a)) and the Act of July 31, 1947 (30 U.S.C. 601 et seq.), Parts 5440, 5450, and 5460, Group 5400, Subchapter E, Chapter II Title 43 of the Code of Federal Regulations are amended as set forth below.

PART 5440—CONDUCT OF SALES

1. Section 5441.1 is amended by:

a. Amending paragraph (b) by inserting after the figure "(a)" the words "and (c)"; and

b. Adding a new paragraph (c) to read:

§ 5441.1 Qualification of bidders.

* * * * *

(c) No bidder who has defaulted on a timber purchase contract because of failure to make payment by the expiration date of the contract may bid on any subsequent timber purchase contracts until he/she has made satisfactory arrangements with the authorized officer for payment of damages due the United States.

PART 5450—AWARD OF CONTRACT

§ 5451.1 [Amended]

2. Section 5451.1(a) is amended by revising the first sentence to read:

(a) A minimum performance bond of not less than 20 percent of the total contract price shall be required for all contracts of $2500 or more, but the amount of the bond shall not be in excess of $500,000, except when the purchaser opts to increase the minimum bond as provided in § 5451.2 of this title.

* * *

* * * * *

3. Section 5451.2 is amended by revising it to read:

§ 5451.2 Performance bonds in excess of minimum.

The purchaser may cut timber before payment of any installment required by § 5461.2(a) of this title by increasing the minimum bond required by § 5461.1(a) of this title by an amount equal to 1 or more installment payments; *provided,* however, that the authorized officer may grant permission to cut timber under this section only when the value of the timber to be cut does not exceed the amount by which the minimum bond has been increased. The purchaser shall secure approval of the adjusted bond by the authorized officer in writing prior to cutting any timber under the adjusted bond.

§ 5451.4 [Amended]

4. Section 5451.4 *Payment Bond* is amended by:

a. Removing from the first sentence the figure "§ 5451.2(b)" and replacing it with the figure "§ 5451.2" and;

b. Replacing the word "second" in the first sentence with the word "first" and;

c. Removing from the fourth sentence the figure "§ 5461.2(a)(4)" and replacing it with the figure "§ 5461.2(c)" and;

d. Adding two new sentences at the end of the section to read:

* * * When operations cease for 60 days or more, the amount of a payment bond may be adjusted downward to an amount equal to the value of the timber cut. Before operations resume, a reduced bond shall be increased to the amount of a full installment.

PART 5460—SALES ADMINISTRATION

5. Section 5461.2 is revised to read:

§ 5461.2 Installment payment requirements.

Contract installment payments shall be determined by the authorized officer as follows:

(a) For sales of less than $500,000, installment payments shall be not less than 10 percent of the total purchase price. For sales of $500,000 or more, installment payments shall be $50,000. A deposit equal to one half of an installment shall be paid prior to, or at the time the authorized officer signs the contract. Such deposit shall be held to satisfy the final payment under the contract. The first installment shall be paid prior to the cutting or removal of the material sold. Each subsequent installment shall be due and payable without notice when the value of material cut or removed equals the sum of all payments not including the deposit, provided however, that in the case of all contracts with a 3-year term, the purchaser shall be required by the second anniversary date to either (1) pay no less than 40 percent of the total purchase price or (2) complete road construction required under the contract the value of which when combined with contract payments is equal to no less than 40 percent of the total purchase price. For the purpose of this section, the value of completed road construction shall be based on the Bureau's appraisal allowance.

(b) Delayed payment of installments shall be allowed if the purchaser furnishes a bond as provided in § 5461.2 of this title. A deposit shall be paid in the same manner as prescribed in paragraph (a) of this section. If cutting is permitted before payment, as prescribed in § 5451.2 of this title, payment by installment shall be made before any timber may be skidded or yarded to a loading point or removed from the contract area. Each subsequent installment shall be due and payable without notice when the sale value of the timber skidded or yarded to a loading point or removed equals the sum of all payments not including the deposit. The unenhanced value of timber allowed to be cut in advance of payment shall be limited to the amount of the increase over and above the required performance bond. Upon payment, the amount of the bond may be applied to other timber sold under the contract to permit its cutting in advance of payment.

(c) Where cutting or removal is permitted under payment bond under § 5451.4 of this title, a deposit shall be paid as provided in paragraph (a) of this section. If cutting and/or removal is permitted before payment, as provided in § 5451.4 of this title, the purchaser shall be billed monthly for timber skidded or yarded to a loading point or removed from the contract area and for any related road maintenance fees unless a lesser period is agreed to by the authorized officer and the purchaser. Payment shall be made within 15 days of the billing date shown on the billing form. The unenhanced value of timber allowed to be cut and/or removed in advance of payment is limited to the amount of the payment bond. Upon payment, the amount of the bond may be applied to other timber.

Dated: July 22, 1982.

Garrey E. Carruthers,

Secretary of the Interior.

[FR Doc. 82-24137 Filed 9-1-82; 8:45 am]

Published in 47 F.R. 38695, September 2, 1982 - Effective October 4, 1982.

Circular Distribution List

#25128

Act of 1980, 44 U.S.C. 3501 *et seq.*, since no significant additional record keeping or reporting requirements are placed on the public.

List of Subjects in 37 CFR Part 2

Administrative practice and procedure, Trademarks.

PART 2—RULES OF PRACTICE IN TRADEMARK CASES

Amendment to Regulations

In consideration of the comments received and pursuant to the authority of the Commissioner of Patents and Trademarks under 15 U.S.C. 1123, Part 2 of Title 37, Code of Federal Regulations is amended as set forth below.

1. Section 2.21 is revised to read as follows:

§ 2.21 Requirements for receiving a filing date.

(a) Materials submitted as an application for registration of a mark will not be accorded a filing date as an application until all of the following elements are received:

(1) Name of the applicant;

(2) A name and address to which communications can be directed;

(3) A drawing of the mark sought to be registered containing the information required by paragraph (d) of § 2.52;

(4) An identification of goods or services;

(5) At least one specimen or facsimile of the mark as actually used;

(6) A date of first use of the mark in commerce, or a certification or certified copy of a foreign registration if the application is based on such foreign registration pursuant to section 44(e) of the Trademark Act, or a claim of the benefit of a prior foreign application in accordance with section 44(d) of the Act;

(7) The required filing fee for at least one class of goods or services.

Compliance with one or more of the rules relating to the elements specified above may be required before the application is further processed.

(b) The filing date of the application is the date on which all of the elements set forth in paragraph (a) of this section are received in the Patent and Trademark Office.

(c) If the papers and fee submitted as an application do not satisfy all of the requirements specified in paragraph (a) of this section, the papers will not be considered to constitute an application and will not be given a filing date. The Patent and Trademark Office will return the papers and any fee submitted therewith to the person who submitted the papers. The Office will notify the person to whom the papers are returned of the defect or defects which prevented their being considered to be an application.

2. Section 2.52 is amended by revising paragraph (d) to read as follows:

§ 2.52 Requirement for drawings.

* * * * *

(d) *Heading.* Across the top of the drawing, beginning one inch (2.5 cm.) from the top edge and not exceeding one fourth of the sheet, there must be placed a heading, listing in separate lines, applicant's complete name, applicant's post office address, the dates of first use of the mark and first use of the mark in commerce (except for an application filed under section 44 of the Trademark Act), and the goods or services recited in the application or a typical item of the goods or services if a number of items are recited in the application. This heading should be typewritten.

* * * * *

3. Section 2.54 is revised to read as follows:

§ 2.54 Informal drawings.

A drawing not in conformity with § 2.51 or paragraphs (a), (b), (c), or (e) of § 2.52 or § 2.53 may be accepted for purpose of examination, but the drawing must be corrected or a new one furnished, as required, before that mark can be published or the application allowed.

§ 2.55 [Removed]

4. Section 2.55 is removed.

5. Section 2.57 is revised to read as follows:

§ 2.57 Facsimiles.

(a) When, due to the mode of applying or affixing the trademark to the goods, or to the manner of using the mark on the goods, or to the nature of the mark, specimens as above stated cannot be furnished, five copies of a suitable photograph or other acceptable reproduction, not to exceed 8½ inches (21.6 cm.) wide and 13 inches (33.0 cm.) long, and clearly and legibly showing the mark and all matter used in connection therewith, shall be furnished.

(b) A purported facsimile which is merely a reproduction of the drawing submitted to comply with § 2.51 will not be considered to be a facsimile depicting the mark as actually used on or in connection with the goods or in connection with the services.

Dated: August 13, 1982.

Gerald J. Mossinghoff,

Commissioner of Patents and Trademarks.

[FR Doc. 82-24158 Filed 9-1-82; 8:45 am]

BILLING CODE 3510-16-M

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[Circular No. 2512]

43 CFR Parts 5440, 5450 and 5460

Sales of Forest Products; Amendment to Procedures

AGENCY: Bureau of Land Management, Interior.

ACTION: Final rulemaking.

SUMMARY: This final rulemaking is directed to creating conditions which will make bidding on forest products more responsive to market conditions, and encouraging the regular flow of receipts to the United States and to local governments.

EFFECTIVE DATE: October 4, 1982.

ADDRESS: Any suggestions or inquiries should be sent to: Director (230), Bureau of Land Management, 1800 C Street NW., Washington, D.C. 20240.

FOR FURTHER INFORMATION CONTACT: Charles Frost, (202) 653-8864.

SUPPLEMENTARY INFORMATION: A proposed rulemaking to amend the regulations governing the sale of timber from lands administered by the Bureau of Land Management was published in the Federal Register on March 19, 1982 (47 FR 12078). This proposed rulemaking would amend the existing regulations in 43 CFR Group 5400, covering the Sale of Timber Products, to: (1) Preclude a defaulter, who failed to complete payment by the expiration date of a timber sale contract, from bidding on another sale until satisfactory arrangements are made to compensate the United States for any damages due; (2) establish a $500,000 ceiling on performance bonds; (3) establish a $50,000 ceiling on installment payments; (4) require a "front-end" deposit of 5 percent of the bid value or one half of an installment payment whichever is less; and (5) require 40 percent of the contract price to be paid by the second anniversary date of a 3-year contract.

The proposed rulemaking was the subject of 18 responses, all of which were from the industry, industry trade associations, and a private individual associated with the industry. All of these comments were given careful consideration during the development of this final rulemaking.

Comments on the provision of the proposed rulemaking precluding bidding by defaulters were generally favorable, and the provision is incorporated in the final rulemaking.

Responses to the proposal to establish a $500,000 ceiling on performance bonds were also favorable. Presently, the Bureau of Land Management does not have a ceiling on the amount of a performance bond. One comment expressed the view that a $500,000 performance bond requirement would create a hardship for small business. Generally, sales with smaller volumes of timber and lower values will continue to require proportionately smaller performance bonds so that this bonding provision should not impose hardships on small purchasers. Bureau of Land Management regulations authorize cutting timber in advance of payment if the purchaser elects to increase a performance bond to cover the value of the timber cut. An exception to the $500,000 ceiling for performance bonds will provide for timber cutting in advance of payment. Accordingly, the final rulemaking places a $500,000 cap on performance bonds with the exception that when a purchaser opts to increase a performance bond to permit cutting prior to payment, there will be no ceiling on an increased performance bond.

Comments were favorable concerning the proposed amendment to place a ceiling of $50,000 on installment payments. An increase in the amount of installments will result in fewer billings by the Bureau of Land Management and fewer payments by timber purchasers. This proposed change is adopted in the final rulemaking.

About one-third of the responders objected to the proposed rulemaking's required "front-end" deposit of 5 percent of the bid value or one-half of a required installment payment. A concern was raised that such an up-front payment would create a hardship for small business by putting a strain on working capital. Requiring a cash deposit may help ease recent extreme bid levels and should be an incentive for timely harvest of timber. Reducing bid levels and increasing timely harvest should have positive effects for small business. To further reduce negative effects, the deposit may be used as part of the 40 percent payment required by the second anniversary of a 3-year contract. However, the 5 percent deposit will be held as the final payment for all contracts. The requirement for a 5 percent deposit or one-half of an installment, whichever is less, has been adopted in the final rulemaking.

About one-third of the responders objected to the requirement in the proposed rulemaking for a 40 percent payment by the second anniversary of a 3-year contract. This requirement was viewed as burdensome to a purchaser's capital reserve. As explained in the preceding paragraph, the required deposit may be used as part of the 40 percent payment requirement. Three responders asked that the value of completed road construction be included as a contribution to the 40 percent payment requirement. Since the completion of road construction is in keeping with the intention of encouraging diligence in completing contracts, encouraging bidding that is reponsive to the market, and encouraging the flow of receipts, the final rulemaking includes the value of complete road construction as a credit towards the 40 percent payment required by the second anniversary of a three-year contract.

The requirement for 40 percent payment by the second anniversary of a 3-year contract has been adopted in the final rulemaking with the provision for crediting the sale deposit and the value of completed road construction based on Bureau of Land Management appraisal allowances.

Among miscellaneous comments was the recommendation that performance bonds be guaranteed at the time of bid. Implementing this recommendation would create administrative burdens for the Bureau of Land Management, the purchaser, and also a burden for small businesses. Therefore, the final rulemaking does not adopt this suggestion.

Other comments stated that the changes made by the proposed rulemaking generally create a hardship on small business and that they should apply only to the Oregon and California Grant Lands in western Oregon since problems with inflationary bidding occur principally on the west coast. To the extent that this rulemaking contributes to bid levels tracking more closely with actual market conditions, effects on small businesses should be positive. Some entities may receive a benefit due to moderation of inflationary forces in the industry. The flow of receipts to local governments should be more even. As written, the final rulemaking relies upon market forces to signal actions to businesses. It is expected that this rulemaking will tend to reduce price fluctuations that are not the result of actual market conditions. This should aid firms in continuing their participation in the market. The number of firms that would refrain from participating in the market because of this rulemaking is not expected to be significant.

All of the changes made in the proposed rulemaking are being implemented in the final rulemaking to achieve diligence in completing contracts, curb inflationary bidding, and increase the flow of receipts from contracts. Additionally, the adoption of changes made by this final rulemaking will bring Bureau of Land Management timber policies and procedures closer to those of other Federal agencies having timber sale programs.

The principal author of this final rulemaking is Charles Frost, Division of Forestry, assisted by the staff of the Office of Legislation and Regulatory Management, Bureau of Land Management.

The Department of the Interior has determined that this document is not a major rule under Executive Order 12291 and will not have a significant economic effect on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 et seq.).

List of Subjects in 43 CFR Parts 5440, 5450, and 5460

Forests and forest products, Government contracts, Public lands, Surety bonds.

Under the authority of the Act of August 28, 1937 (43 U.S.C. 1181(a)) and the Act of July 31, 1947 (30 U.S.C. 601 et seq.), Parts 5440, 5450, and 5460, Group 5400, Subchapter E, Chapter II Title 43 of the Code of Federal Regulations are amended as set forth below.

Dated: July 22, 1982.

Garrey E. Carruthers,

Secretary of the Interior.

PART 5440—CONDUCT OF SALES

1. Section 5441.1 is amended by:

a. Amending paragraph (b) by inserting after the figure "(a)" the words "and (c)"; and

b. Adding a new paragraph (c) to read:

§ 5441.1 Qualification of bidders.

* * * * *

(c) No bidder who has defaulted on a timber purchase contract because of failure to make payment by the expiration date of the contract may bid on any subsequent timber purchase contracts until he/she has made satisfactory arrangements with the authorized officer for payment of damages due the United States.

PART 5450—AWARD OF CONTRACT

§ 5451.1 [Amended]

2. Section 5451.1(a) is amended by revising the first sentence to read:

(a) A minimum performance bond of not less than 20 percent of the total contract price shall be required for all

contracts of $2500 or more, but the amount of the bond shall not be in excess of $500,000, except when the purchaser opts to increase the minimum bond as provided in § 5451.2 of this title.

* * *

* * * * *

3. Section 5451.2 is amended by revising it to read:

§ 5451.2 Performance bonds in excess of minimum.

The purchaser may cut timber before payment of any installment required by § 5461.2(a) of this title by increasing the minimum bond required by § 5461.1(a) of this title by an amount equal to 1 or more installment payments; *provided,* however, that the authorized officer may grant permission to cut timber under this section only when the value of the timber to be cut does not exceed the amount by which the minimum bond has been increased. The purchaser shall secure approval of the adjusted bond by the authorized officer in writing prior to cutting any timber under the adjusted bond.

§ 5451.4 [Amended]

4. Section 5451.4 *Payment Bond* is amended by:

a. Removing from the first sentence the figure "§ 5451.2(b)" and replacing it with the figure "§ 5451.2" and;

b. Replacing the word "second" in the first sentence with the word "first" and;

c. Removing from the fourth sentence the figure "§ 5461.2(a)(4)" and replacing it with the figure "§ 5461.2(c)" and;

d. Adding two new sentences at the end of the section to read:

* * * When operations cease for 60 days or more, the amount of a payment bond may be adjusted downward to an amount equal to the value of the timber cut. Before operations resume, a reduced bond shall be increased to the amount of a full installment.

PART 5460—SALES ADMINISTRATION

5. Section 5461.2 is revised to read:

§ 5461.2 Installment payment requirements.

Contract installment payments shall be determined by the authorized officer as follows:

(a) For sales of less than $500,000, installment payments shall be not less than 10 percent of the total purchase price. For sales of $500,000 or more, installment payments shall be $50,000. A deposit equal to one half of an installment shall be paid prior to, or at the time the authorized officer signs the contract. Such deposit shall be held to satisfy the final payment under the contract. The first installment shall be paid prior to the cutting or removal of the material sold. Each subsequent installment shall be due and payable without notice when the value of material cut or removed equals the sum of all payments not including the deposit, provided however, that in the case of all contracts with a 3-year term, the purchaser shall be required by the second anniversary date to either (1) pay no less than 40 percent of the total purchase price or (2) complete road construction required under the contract the value of which when combined with contract payments is equal to no less than 40 percent of the total purchase price. For the purpose of this section, the value of completed road construction shall be based on the Bureau's appraisal allowance.

(b) Delayed payment of installments shall be allowed if the purchaser furnishes a bond as provided in § 5461.2 of this title. A deposit shall be paid in the same manner as prescribed in paragraph (a) of this section. If cutting is permitted before payment, as prescribed in § 5451.2 of this title, payment by installment shall be made before any timber may be skidded or yarded to a loading point or removed from the contract area. Each subsequent installment shall be due and payable without notice when the sale value of the timber skidded or yarded to a loading point or removed equals the sum of all payments not including the deposit. The unenhanced value of timber allowed to be cut in advance of payment shall be limited to the amount of the increase over and above the required performance bond. Upon payment, the amount of the bond may be applied to other timber sold under the contract to permit its cutting in advance of payment.

(c) Where cutting or removal is permitted under payment bond under § 5451.4 of this title, a deposit shall be paid as provided in paragraph (a) of this section. If cutting and/or removal is permitted before payment, as provided in § 5451.4 of this title, the purchaser shall be billed monthly for timber skidded or yarded to a loading point or removed from the contract area and for any related road maintenance fees unless a lesser period is agreed to by the authorized officer and the purchaser. Payment shall be made within 15 days of the billing date shown on the billing form. The unenhanced value of timber allowed to be cut and/or removed in advance of payment is limited to the amount of the payment bond. Upon payment, the amount of the bond may be applied to other timber.

[FR Doc. 82-24137 Filed 9-1-82; 8:45 am]

BILLING CODE 4310-84-M

DEPARTMENT OF TRANSPORTATION

Research and Special Programs Administration

49 CFR Part 179

[Docket No. HM-174; Amdt. No. 179-30]

Specifications for Tank Cars

AGENCY: Materials Transportation Bureau (MTB), Research and Special Programs Administration, DOT.

ACTION: Amendment of final rule; extension of the compliance date.

SUMMARY: This document amends the final rule published on January 26, 1981 (46 FR 8005) and revised on August 24, 1981 (46 FR 42678), which established certain construction standards for railroad tank cars used to transport hazardous materials. The amendment extends the compliance date for equipping newly constructed DOT specification 105 tank cars, built to carry ethylene oxide, with a safety valve sized in accordance with 49 CFR 179.106-2(c)(4). The compliance date is extended from September 1, 1982, until September 1, 1983. The extension will permit completion of a study by the Association of American Railroads (AAR) concerning the optimum sizing for the safety valve on cars built to carry ethylene oxide. This action is taken by MTB in response to the AAR's petition for an extension of the compliance date in the final rule.

EFFECTIVE DATE: August 31, 1982.

FOR FURTHER INFORMATION CONTACT: Leavitt A. Peterson (Office of Safety), Federal Railroad Administration, 400 Seventh Street, SW., Washington, D.C. 20590, (202) 426-0897.

SUPPLEMENTARY INFORMATION: On January 26, 1981, MTB issued a final rule establishing certain construction standards for DOT specification 105 tank cars built to carry specified commodities. The construction standards include a safety valve sizing requirement for DOT specification 105 tank cars built to carry ethylene oxide. The final rule required that after August 31, 1981, each DOT specification 105 ethylene oxide tank car shall be constructed with a safety valve sized in accordance with 49 CFR 179.106-2(c)(4).

After publication of the final rule, MTB received several petitions for reconsideration of the final rule. These petitions addressed, among other things, the safety valve sizing requirement for ethylene oxide. The petitioners argued that the larger safety valve for ethylene oxide would be less safe because of the peculiar commodity characteristics.

Library

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

43 CFR Part 1820

[Circular No. 2513]

Application Procedures; Amendment as to Place of Filing Simultaneous Oil and Gas Leasing Applications

Under the authority of section 310 of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1740) Part 1820, Group 1800, Subchapter A, Chapter II of Title 43 of the Code of Federal Regulations is amended as set forth below.

PART 1820—APPLICATION PROCEDURES

1. Section 1821.2–1 is amended as follows:

a. Revising the introductory text of paragraph (d) to read:

§ 1821.2–1 Office hours; place for filing.

* * * * *

(d) The Bureau of Land Management has redelegated authority to District and Area offices for processing certain types of public lands disposal and use authorization applications. In those instances where delegation has been made to the District or Area office from the State office, applications shall be filed with the District or Area office having responsibility for the public lands covered by the requested action. Accordingly, applicants, prior to the filing of an application, should contact the State, District, or Area office of the Bureau of Land Management in their immediate vicinity or where the public lands being applied for are located. Simultaneous oil and gas lease applications shall be filed only in the Wyoming State Office. The locations of the offices are as follows:

* * * * *

b. Revising Office and Area of Jurisdiction of the Alaska State Office in paragraph (d) to read: "Alaska State Office, 701 "C" Street, Box 13, Anchorage, Alaska 99513 Southern Alaska, as well as all oil and gas leasing.

c. Revising Office and Area of Jurisdiction of the Fairbanks District Office in paragraph (d) to read: "Fairbanks District Office, N. Post of Ft. Wainwright, P.O. Box 1150, Fairbanks, Alaska 99707—Northern Alaska except for oil and gas leasing.

Garrey E. Carruthers,
Assistant Secretary of the Interior.
September 3, 1982.

[FR Doc. 82-25133 Filed 9-13-82; 8:45 am]

Published in 47 F.R. 40412, September 14, 1982 - Effective October 14, 1982.

Circular Distribution List

GPO 837 - 112

2513

proceedings are initiated, the former service member must be notified of:

(a) The basis for separation other than drug abuse or use or possession of drugs based upon compelled urinalysis that was specified in the commander's report and upon which the Air Force now seeks to base a less than honorable discharge.

(b) The full complement of procedural protections that are required by current regulations.

(c) Name, address and telephone number of an Area Defense Counsel with whom the former service member has a right to consult, and

(d) The right to participate in the new proceedings to be conducted at the Air Force Base nearest the former service member's current address, or to elect to maintain his or her present character of discharge.

Subpart B—Air Force Discharge Review Board

Section 865.121 is amended by adding paragraph (b)(4) to read as follows:

§ 865.121 Discharge review standards.

* * * * *

(b) * * *

(4) The following applies to applicants who received less than fully honorable administrative discharges prior to March 2, 1982 because evidence developed by or as a direct result of compulsory urinalysis testing was introduced in the proceedings. Applicants who believe they are members of the above class will so indicate this by writing "Category W" in block 8, of their DD Form 293. AFMPC/MPCDOA1 will expedite processing these applications to the DRB, where they shall be reviewed by a designated official. If the applicant falls within the class defined above, this official shall either recharacterize the discharge to honorable without any additional proceedings, or recommend that new proceedings be initiated to determine whether other proper grounds exist to justify the issuance of a less than honorable discharge. If is is determined that the applicant does not fall within the class, the application will be referred back to the Discharge Review Board for review in the normal course. If new administrative proceedings are initiated, the former service member must be notified of:

(i) The basis for separation other than drug abuse or use or possession of drugs based upon compelled urinalysis that was specified in the Commander's report and upon which the Air Force now seeks to base a less than honorable discharge.

(ii) The full complement of procedural protections that are required by current regulations.

(iii) Name, address and telephone number of an Area Defense Counsel with whom the former service member has a right to consult, and

(iv) The right to participate in the new proceedings to be conducted at the Air Force Base nearest the former service member's current address, or to elect to maintain his or her present character of discharge.

* * * * *

Winnibel F. Holmes,

Air Force Federal Register Liaison Officer.

[FR Doc. 82-25175 Filed 9-13-82; 8:45 am]

BILLING CODE 3910-01-M

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

43 CFR Part 1820

[Circular No. 2513]

Application Procedures; Amendment as to Place of Filing Simultaneous Oil and Gas Leasing Applications

AGENCY: Bureau of Land Management, Interior.

ACTION: Final rulemaking.

SUMMARY: This final rulemaking amends the existing regulations in 43 CFR Subpart 1821 relating to the filing of forms, specifically the place of filing of simultaneous oil and gas lease application forms. This amendment is necessitated by the extension of the use of the Automated Simultaneous Oil and Gas Lease Application (Bureau of Land Management Forms 3112–6 and 3112–6a) to all States. This also serves to give notice that all simultaneous oil and gas lease applications will be filed in the Wyoming State Office effective on November 1, 1982. The rulemaking also establishes the proper office to file oil and gas lease applications in Alaska.

EFFECTIVE DATE: October 14, 1982.

ADDRESS: Any suggestions or inquiries should be addressed to: Director (530), Bureau of Land Management, 1800 C Street, NW., Washington, D.C. 20240.

FOR FURTHER INFORMATION CONTACT: Michael H. Schwartz (202) 343–7753.

SUPPLEMENTARY INFORMATION: Existing regulations under § 3112.2–1(a) of Title 43 of the Code of Federal Regulations require the filing of simultaneous oil and gas lease applications on a form approved by the Director, Bureau of Land Management.

On November 6, 1981, the Director approved the use of Bureau of Land Management Forms 3112–6 and 3112–6(a) for simultaneous oil and gas lease applications submitted to the Wyoming State Office and discontinued acceptance of Bureau of Land Management Form 3112–1 by the Wyoming State Office. Federal Register notices dated April 5, 1982 (47 FR 14488); June 1, 1982 (47 FR 23816); and July 26, 1982 (47 FR 31968) have extended use of the form to other State Offices of the Bureau of Land Management. In conjunction with the required use of Forms 3112–6 and 3112–6(a), this final rulemaking amends 43 CFR Subpart 1821 by designating the Wyoming State Office as the proper office for filing all simultaneous oil and gas lease applications. This notice also serves to inform the public that beginning on November 1, 1982, all applications for simultaneous oil and gas leases under the jurisdiction of the California and Utah State Offices must be submitted to the Wyoming State Office on Bureau of Land Management Forms 3112–6 and 3112–6(a). Adoption of the new lease form by California and Utah completes the transition from Form 3112–1 to Forms 3112–6 and 3112–6(a) as well as the requirement that all simultaneous applications be filed in the Wyoming State Office.

Effective on November 1, 1982, all applications for simultaneous oil and gas leases must be submitted to the Wyoming State Office. Applications filed on Form 3112–1 will not be accepted. Applications filed on the automated form and received in a condition that the authorized officer determines would prevent automated processing will not be accepted. The authorized officer will be guided in the decision of whether an application form is acceptable or unacceptable by criteria furnished in the Bureau of Land Management's manuals and in instruction memoranda. Applications determined to be unacceptable will be returned to the applicant along with the filing fee. All applications shall be filed in accordance with Group 3100, Subchapter C, Chapter II of Title 43 of the Code of Federal Regulations.

This rulemaking also serves to clarify that the Bureau of Land Management State Office in Anchorage, Alaska, is the only proper place to file any application for Federal oil and gas leases in Alaska. Similar rulemaking was published on December 1, 1981 (46 FR 58316) but was inadvertently superseded by a rulemaking published on March 22, 1982 (47 FR 12292).

This final rulemaking is an administrative action. It codifies and clarifies current procedures and more

clearly explains to the public the proper location to file certain applications and the proper form to file. This rulemaking will make it easier to file for simultaneous oil and gas leases. No additional burden will be imposed on the public as a result of this final rulemaking, in fact, this rulemaking should lessen the burden.

The author of this final rulemaking is Michael H. Schwartz, Division of Oil and Gas, assisted by the staff of the Office of Legislation and Regulatory Management, Bureau of Land Management.

It is hereby determined that this rulemaking does not constitute a major Federal action significantly affecting the quality of the human environment and that no detailed statement pursuant to section 102(2)(C) of the National Environmental Policy Act of 1969 (42 U.S.C. 4332(2)(C)) is required.

The Department of the Interior has determined that this document is not a major rule under Executive Order 12291 and will not have a significant economic effect on a substantial number of small entities under the Regulatory Flexibility Act (Pub. L. 96–354).

The final rulemaking does not affect the burden caused by the filing requirement, but consolidates in one location the place of filing. The effects of the final rulemaking are equal for all participants.

List of Subjects in 43 CFR Part 1820

Administrative practice and procedure, Alaska, Archives and records, Public lands.

Under the authority of section 310 of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1740) Part 1820, Group 1800, Subchapter A, Chapter II of Title 43 of the Code of Federal Regulations is amended as set forth below.

Garrey E. Carruthers,

Assistant Secretary of the Interior.

September 3, 1982.

PART 1820—APPLICATION PROCEDURES

1. Section 1821.2–1 is amended as follows:

a. Revising the introductory text of paragraph (d) to read:

§ 1821.2–1 Office hours; place for filing.

* * * * *

(d) The Bureau of Land Management has redelegated authority to District and Area offices for processing certain types of public lands disposal and use authorization applications. In those instances where delegation has been made to the District or Area office from the State office, applications shall be filed with the District or Area office having responsibility for the public lands covered by the requested action. Accordingly, applicants, prior to the filing of an application, should contact the State, District, or Area office of the Bureau of Land Management in their immediate vicinity or where the public lands being applied for are located. Simultaneous oil and gas lease applications shall be filed only in the Wyoming State Office. The locations of the offices are as follows:

* * * * *

b. Revising Office and Area of Jurisdiction of the Alaska State Office in paragraph (d) to read: "Alaska State Office, 701 "C" Street, Box 13, Anchorage, Alaska 99513 Southern Alaska, as well as all oil and gas leasing.

c. Revising Office and Area of Jurisdiction of the Fairbanks District Office in paragraph (d) to read: "Fairbanks District Office, N. Post of Ft. Wainwright, P.O. Box 1150, Fairbanks, Alaska 99707—Northern Alaska except for oil and gas leasing.

[FR Doc. 82–25133 Filed 9–13–82; 8:45 am]

BILLING CODE 4310–84–M

FEDERAL MARITIME COMMISSION

46 CFR Part 507

[General Order 39, Docket No. 82–31]

Actions To Adjust or Meet Conditions Unfavorable to Shipping in the Foreign Trade of the United States

AGENCY: Federal Maritime Commission.

ACTION: Removal of Part 507.

SUMMARY: This removes regulations designed to meet or adjust conditions unfavorable to shipping in the United States/Guatemalan trade resulting from a since repealed Guatemalan decree.

DATE: September 14, 1982.

ADDRESS: Francis C. Hurney, Secretary, Federal Maritime Commission, 1100 L Street NW., Washington, D.C. 20573, (202) 523–5725.

FOR FURTHER INFORMATION CONTACT: Francis C. Hurney, Secretary, (202) 523–5725.

SUPPLEMENTARY INFORMATION: On June 28, 1982, the Commission issued a notice of proposed rulemaking requesting comments on the proposed removal of Part 507 of Title 46 of the Code of Federal Regulations (47 FR 27875). No comments were received in response to the Commission's Notice.

Part 507 was promulgated, pursuant to section 19 of the Merchant Marine Act of 1920 (46 U.S.C. 19(1)(b)), to offset the discriminatory effects of a Guatemalan decree on the United States foreign commerce. Because the Guatemalan Decree has now been repealed, there is no longer any need for the regulations in Part 507.

List of Subjects in 46 CFR Part 507

Guatemala, Maritime carriers, Reporting requirements.

PART 507—ACTIONS TO ADJUST OR MEET CONDITIONS UNFAVORABLE TO SHIPPING IN THE FOREIGN TRADE OF THE UNITED STATES [REMOVED]

Therefore, it is ordered, that, pursuant to 5 U.S.C. 553 and section 43, Shipping Act, 1916 (46 U.S.C. 841(a) and section 19(1)(b)), Merchant Marine Act, 1920 (46 U.S.C. 876(1)(b)), Part 507 of Title 46 of the CFR is removed.

It is further ordered, that this proceeding be discontinued.

By the Commission.

Francis C. Hurney,

Secretary.

[FR Doc. 82–25155 Filed 9–13–82; 8:45 am]

BILLING CODE 6730–01–M

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Ch. I

[CC Docket No. 82–45; FCC 82–351]

Domestic Fixed-Satellite Transponder Sales

AGENCY: Federal Communications Commission.

ACTION: Policy statement and order.

SUMMARY: The Commission found the sale of transponders on domestic satellites to users in the public interest. The Commission also found that the specific proposals before it did not constitute common carriage and modified outstanding space station radio authorizations to allow such sales.

EFFECTIVE DATE: August 17, 1982.

FOR FURTHER INFORMATION CONTACT: Robert Mazer, Common Carrier Bureau, (202) 634–1627.

SUPPLEMENTARY INFORMATION:

In the matter of Domestic Fixed-Satellite Transponder Sales, CC Docket No. 82–45; and in the matter of the applications of Hughes Communications, Inc., Southern Pacific Communications Company, RCA American Communications, Inc., Western Union Telegraph Company, for modification of domestic fixed satellite space station authorizations to permit

Library

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[Circular No. 2514]

43 CFR Parts 4100

Grazing Administration, Exclusive of Alaska

Under the authority of the Taylor Grazing Act of 1934, as amended (43 U.S.C. 315(a)–(r), Section 4 of the Act of August 28, 1937 (43 U.S.C. 1181(d)) and the Federal Land Policy and Management Act of 1976, as amended by the Public Rangelands Improvement Act of 1978 (43 U.S.C. 1701 et seq.), Part 4100, Subchapter D and Part 9260, Subchapter I, Chapter II of Title 43 of the Code of Federal Regulations are amended as set forth below.

Note.—The information collection requirements contained in 43 CFR Part 4100 have been approved by the Office of Management and Budget under 44 U.S.C. 3507 and assigned clearance numbers: 1004–0005; 1004–0016; 1004–0019; 1004–0020; 1004–0041; 1004–0047; 1004–0048; 1004–0049; 1004–0051; and 1004–0068. The information is being collected to allow the authorized officer to determine if an application to utilize the public lands for grazing purposes should or should not be granted. This information will be utilized in making this determination. The obligation to respond is required to obtain a benefit.

PART 4100—GRAZING ADMINISTRATION—EXCLUSIVE OF ALASKA

Subpart 4100—Grazing Administration—Exclusive of Alaska; General

Sec.
4100.0-1 Purpose.
4100.0-2 Objectives.
4100.0-3 Authority.
4100.0-5 Definitions.
4100.0-7 Cross-references.

Subpart 4110—Allocation of Grazing Use

4110.1 Mandatory qualifications.
4110.2 Grazing preference.
4110.2-1 Base property.
4110.2-2 Grazing preference allocation.
4110.2-3 Transfer of grazing preference.
4110.2-4 Relinquishment of grazing preference.
4110.3 Changes in available forage.
4110.3-1 Additional forage.
4110.3-2 Decrease in forage.
4110.4 Changes in public land acreage.
4110.4-1 Additional land acreage.
4110.4-2 Decrease in land acreage.
4110.5 Conflicting applications.
4110.6 Interest of Member of Congress.

Subpart 4120—Grazing Management

4120.1 Allotments.
4120.2 Terms and conditions.
4120.2-1 Mandatory terms and conditions.
4120.2-2 Other terms and conditions.
4120.2-3 Allotment management plans.
4120.3 Temporary modifications and closures to livestock use.
4120.4 Ownership and identification of livestock.
4120.5 State livestock requirements.
4120.6 Range improvements.
4120.6-1 Conditions for range improvements.
4120.6-2 Cooperative agreements.
4120.6-3 Range improvement permits.
4120.6-4 Standards, design, and stipulations.
4120.6-5 Assignment of range improvements.
4120.6-6 Removal and compensation for loss of range improvements.
4120.6-7 Contributions.
4120.7 Cooperation in management.
4120.8 Special rules.

Subpart 4130—Authorizing Grazing Use

4130.1 Applications.
4130.2 Grazing permits or leases.
4130.3 Free-use grazing permits.
4130.4 Other grazing authorizations.
4130.4-1 Exchange-of-use grazing agreements.
4130.4-2 Nonrenewable grazing permits or leases.
4130.4-3 Crossing permits.
4130.4-4 Special grazing permits or leases.
4130.5 Fees.
4130.5-1 Payment of fees.
4130.5-2 Refunds.
4130.5-3 Service charge.
4130.6 Changes in grazing use.
4130.7 Pledge of permits or leases as security for loans.

Subpart 4140—Prohibited Acts

4140.1 Acts prohibited on public lands.

Subpart 4150—Unauthorized Grazing Use

4150.1 Violations.
4150.2 Notice and order to remove.
4150.3 Settlement.
4150.4 Impoundment and disposal.
4150.4–1 Notice of intent to impound.
4150.4–2 Impoundment.
4150.4–3 Notice of public sale.
4150.4–4 Redemption.
4150.4–5 Sale.

Subpart 4160—Administrative Remedies

4160.1 Proposed decisions.
4160.1-1 Proposed decisions on permits or leases.
4160.1-2 Proposed decisions on alleged violations.
4160.2 Protests.
4160.3 Final decisions.
4160.4 Appeals.

Subpart 4170—Penalties

4170.1 Civil penalties.
4170.1-1 Penalty for violations.
4170.1-2 Failure to use.
4170.1-3 Federal or State laws or regulations.
4170.2 Penal provisions.
4170.2-1 Penal provisions under the Taylor-Grazing Act.
4170.2-2 Penal provisions under the Federal Land Policy and Management Act.

AUTHORITY: 43 U.S.C. 315, 315a-315r, 1701 et seq., 1181d, unless otherwise noted.

SOURCE: 43 FR 29067, July 5, 1978, unless otherwise noted.

Subpart 4100—Grazing Administration—Exclusive of Alaska; General

§ 4100.0-1 Purpose.

The purpose of these regulations is to provide for the uniform administration of livestock grazing on the public lands, exclusive of Alaska.

§ 4100.0-2 Objectives.

The objectives of these regulations are to enhance the productivity of the public rangelands by preventing overgrazing and soil deterioration; to provide for their orderly use, improvement and development; to stabilize the livestock industry dependent upon the public range; provide for inventory and categorization of public rangelands on the basis of range conditions and trends; consistent with land-use plans, multiple use, sustained yield, environmental values, economic and other objectives stated in 43 CFR Subpart 1725; the Taylor Grazing Act of June 28, 1934, as amended (43 U.S.C. 315, 315a–315r); section 102 of the Federal Land Policy Management Act of 1976 (43 U.S.C. 1701 et seq.) and the Public Rangelands Improvement Act of 1978 (43 U.S.C. 1901 et seq.).

§ 4100.0-3 Authority.

(a) The Taylor Grazing Act of June 28, 1934, as amended (43 U.S.C. 315, 315a-315r), authorizes the Secretary of the Interior to establish grazing districts and to make provisions for the protection, administration, regulation, and improvement of the public lands.

Published in 47 F.R. 41703, September 21, 1982 - Effective October 21, 1982

Circular Distribution List

It also authorizes the Secretary to lease lands outside of such districts for grazing purposes upon such terms and conditions as he may prescribe.

(b) The Federal Land Policy and Management Act of 1976 (43 U.S.C. 1701 et seq.) as amended by the Public Rangelands Improvement Act of 1978 (43 U.S.C. 1901 et seq.), provides for the management, protection, development, and enhancement of the public lands and directs the Secretary to manage these lands under principles of multiple use and sustained yield in accordance with land use plans.

(c) Executive orders transfer land acquired under the Bankhead-Jones Farm Tenant Act of July 22, 1937, as amended (7 U.S.C. 1012), to the Secretary and authorize administration under the Taylor Grazing Act.

(d) Section 4 of the O&C Act of August 28, 1937 (43 U.S.C. 1181d), authorizes the Secretary, at his discretion, to lease for grazing purposes any revested Oregon and California railroad or reconveyed Coos Bay wagon road grant lands in the State of Oregon which may be so used without interfering with the production of timber or other purposes specified in the O&C Act.

(e) Public land orders, Executive orders, and agreements authorize the Secretary to administer livestock grazing on specified lands under the Taylor Grazing Act or other authority as specified.

[43 FR 29067, July 5, 1978, as amended at 45 FR 47105, July 11, 1980]

§ 4100.0-5 Definitions.

Whenever used in this part, unless the context otherwise requires, the following definitions apply:

The "Act" means the Taylor Grazing Act of June 28, 1934, as amended (43 U.S.C. 315, 315a-315r).

"Affected interests" means any individual or organization who has been identified by the authorized officer as being potentially affected by a proposed action or who has expressed, in writing to the authorized officer, concern for the management of livestock grazing on specific grazing allotments. In addition to grazing permittees and lessees, such interests may include, for example, State officials, intermingled land owners, and wildlife or conservation representatives.

"Allotment" means an area of land designated and managed for grazing of livestock.

"Allotment management plan (AMP)" means a document program which applies to livestock operations on the public lands, prepared in consultation, cooperation and coordination with the permittee(s), lessee(s) or other involved affected interests.

"Animal unit month (AUM)" means the amount of forage necessary for the sustenance of one cow or its equivalent for a period of 1 month.

"Authorized officer" means any person authorized by the Secretary to administer regulations in this part.

"Base property" means: (1) Land that has the capability to produce crops or forage that can be used to support authorized livestock for a specified period of the year, or (2) water that is suitable for consumption by livestock and is available and accessible, to the authorized livestock when the public lands are used for livestock grazing.

"Cancellation" means a permanent termination of a grazing permit or grazing lease and grazing preference, or free-use grazing permit or other grazing authorization, in whole or in part.

"Certified actual use" means a report of the actual livestock grazing use certified to be accurate by the permittee or lessee.

"Class of livestock" means age and/or sex groups of a kind of livestock.

"Consultation, cooperation and coordination" means communication between the Bureau of Land Management, other agencies and affected permittee(s) or lessee(s), landowners involved, the district grazing advisory boards where established, any State having lands within the area to be covered by such an allotment management plan and other affected interests regarding the planning and preparation of management alternatives for the purpose of deliberation, the interchange of opinions, and the potential resolution of differences or disputes, which recognizes:

(1) The knowledge and experience of those involved or interested in the management of rangelands; and

(2) The Bureau of Land Management's ultimate authority to ensure the proper management and use of public lands;

"Contiguous land" means land that borders or touches upon public land.

"District" means the specific area of public lands administered by a District Manager.

"Grazing district" means the specific area within which the public lands are administered under section 3 of the act. Public lands outside grazing district boundaries are administered under section 15 of the act.

"Grazing fee year" means the 12 month period used for billing purposes.

"Grazing lease" means a document authorizing use of the public lands outside grazing districts under section 15 of the act for the purpose of grazing livestock.

"Grazing permit" means a document authorizing use of the public lands within grazing districts under section 3 of the act for the purpose of grazing livestock.

"Grazing preference" means the total number of animal unit months of livestock grazing on public lands apportioned and attached to base property owned or controlled by a permittee or lessee.

"Indigenous animal" means an animal which is or was part of the original fauna of the area in question.

"Land use plan" means a planning decision document under the provisions of the Federal Land Policy and Management Act which establishes resource allocations and coordinated objectives and constraints for all forms of public land and resource use within the area covered by the plan;

"Livestock" or "kind of livestock" means species of domestic livestock—cattle, sheep, horses, burros, and goats.

"Livestock grazing capacity" means the number of animal unit months of forage available for livestock grazing on a sustained yield basis on the public lands.

"Modification" means a change or revision of the terms and conditions of an unexpired grazing permit or lease including changes in kind or class and number of livestock, period(s) of use, and area(s) of use.

"Monitoring" means the orderly collection of data to evaluate:

(1) Effects of management actions; and

(2) Effectiveness of actions in meeting management objectives.

"Other lands under Bureau of Land Management control" means those State or private lands controlled by the Bureau of Land Management through lease, agreement, or otherwise.

"Public lands" means any land and interest in land outside of Alaska owned by the United States and administered by the Secretary of the Interior through the Bureau of Land Management, except lands located on the Outer Continental Shelf and lands held for the benefit of Indians.

"Range improvement" means any activity or program on or relating to rangelands, designed to improve production of forage; change vegetative composition; control patterns of use; provide water; stabilize soil and water conditions; and provide habitat for livestock and wildlife.

"Secretary" means the Secretary of the Interior or his authorized officer.

"Service area" means the area that can be properly grazed by livestock watering at a certain water. In determining this area, natural and cultural barriers, recognized habits of livestock, proper livestock practices, and range management factors shall be considered.

"Supplemental feed" means concentrates or harvest feed supplied for improved livestock and rangeland management.

"Suspended preference" means that portion of a grazing preference which has been suspended and for which active grazing use will not be reauthorized until forage is available and allocated for livestock grazing use on a sustained yield basis.

"Suspension" means temporarily withholding, in whole or in part, grazing use authorized under a grazing permit, lease or other grazing use authorization. The withholding may be voluntary by the permittee or lessee."

[43 FR 29067, July 5, 1978, as amended at 46 FR 5788, Jan. 19, 1981; 46 FR 12496, Feb. 17, 1981]

§ 4100.0-7 Cross-references.

The regulations in Subpart 1784 of this chapter govern advisory boards and the regulations in Part 4 of this title govern appeals and hearings.

Subpart 4110—Allocation of Grazing Use

§ 4110.1 Mandatory qualifications.

Except as provided under §§ 4130.3 and 4130.4-3, to qualify for grazing use on the public lands an applicant must be engaged in the livestock business, must own or control land or water base property, and must be:

(a) A citizen of the United States or have properly filed a valid declaration of intention to become a citizen or a valid petition for naturalization; or

(b) A group or association authorized to conduct business in the State in which the grazing use is sought, all members of which are qualified under paragraph (a) of this section; or

(c) A corporation authorized to conduct business in the State in which the grazing use is sought.

§ 4110.2 Grazing preference.

§ 4110.2-1 Base property.

(a) The authorized officer shall find land or water owned or controlled by an applicant to be base property (see § 4100.0-5(g)) if:

(1) It serves as a base for a livestock operation which utilizes public lands within a grazing district; or

(2) It is contiguous land, or noncontiguous land when no applicant owns or controls contiguous land, used in conjunction with a livestock operation which utilizes public lands outside a grazing district.

(b) The authorized officer shall specify the length of time for which land base property shall be capable of supporting authorized livestock during the year, based on the management requirements for the public lands.

(c) An applicant shall provide a legal description, or plat, of his base property and shall certify to the authorized officer that this base property meets the requirements under paragraphs (a) and (b) of this section and § 4100.0-5(g).

[43 FR 29067, July 5, 1978, as amended at 46 FR 5788, Jan. 19, 1981]

§ 4110.2-2 Grazing preference allocation.

(a) Grazing preference shall be allocated to qualified applicants following the allocation of the vegetation resources among livestock grazing, wild free-roaming horses and burros, wildlife, and other uses in the land use plans.

(b) Applicants who own or control base property contiguous to or cornering upon public land outside of a grazing district where such public land consists of an isolated or disconnected tract embracing 760 acres or less shall have a preference right for 90 days after the tract has been offered for lease to lease the whole tract.

(c) The animal unit months of grazing preference are attached to: (1) The acres of land base property on a pro rata basis, or (2) water base property on the basis of the livestock grazing capacity within the service area of that water.

§ 4110.2-3 Transfer of grazing preference.

(a) Transfers of grazing preference in whole or in part are subject to the following requirements:

(1) The transferee shall meet all necessary qualifications for a grazing preference under the regulations of this part.

(2) The transfer applications under paragraphs (b) and (c) of this section, shall evidence assignment of interest and obligation in range improvements authorized on public lands under § 4120.6 and used and maintained in conjunction with the transferred preference (see § 4120.6-5). The transferee shall accept the terms and conditions of the cooperative agreements and range improvement permits with such modifications deemed necessary by the authorized officer.

(3) The transferee shall accept the terms and conditions of the terminating grazing permit or lease (see § 4130.2) with such modifications as he may request which are approved by the authorized officer or with such modifications as may be required by the authorized officer.

(4) The transferee shall file an application for a grazing permit or lease to the extent of the transferred preference simultaneously with filing a transfer application under paragraph (b) or (c) of this section.

(b) If base property is sold or leased, the transferee shall within 90 days of the date of sale or lease file with the authorized officer a properly executed transfer application showing the base property and the amount of grazing preference being transferred in animal unit months.

(c) If a grazing preference is being transferred from one base property to another base property, the transferee shall file with the authorized officer a properly completed transfer application in advance for approval.

(d) If the transfer application was properly filed and met the requirements under paragraph (a) of this section, the authorized officer may approve the transfer and may issue a grazing permit or lease.

(e) At the date of approval of a transfer, the existing grazing permit or lease shall terminate automatically and without notice to the extent of the transfer.

(f) If an unqualified transferee acquires rights in base property through operation of law or testamentary deposition, such transfer will not affect the grazing preference or any outstanding grazing permit or lease, or preclude the issuance or renewal of a grazing permit or lease based on such property for a period of 2 years after the transfer. However, such a transferee shall qualify under paragraph (a) of this section within the 2-year period or the grazing preference shall be subject to cancellation. The authorized officer may grant extensions of the 2-year period where there are delays solely attributable to probate proceedings.

(g) Failure of the transferee to comply with the regulations of this section may result in the cancellation of the grazing preference.

[43 FR 29067, July 5, 1978, as amended at 46 FR 5788, Jan. 19, 1981]

§ 4110.2-4 Relinquishment of grazing preference.

Upon written request, the authorized officer shall accept the relinquishment of a grazing preference in whole or in part. No such relinquishment shall be accepted without the written concurrence of any lien holder and the written consent of the owner(s) of the base property to which the preference is attached, unless the preference holder is a lessee of the base property without whose livestock operation a grazing preference would not have been established.

§ 4110.3 Changes in available forage.

§ 4110.3-1 Additional forage.

Additional forage may be allocated to qualified applicants for livestock grazing use consistent with multiple-use management objectives.

(a) Additional forage temporarily available for livestock grazing use, including forage which is temporarily available within an allotment because of a change in grazing use under § 4130.6, may be allocated on a nonrenewable basis.

(b) Additional forage permanently available for livestock grazing use shall first be allocated in satisfaction of grazing preferences to the permittee(s) or lessee(s) authorized to graze in the allotment in which the forage is available.

(c) Additional forage permanently available for livestock grazing use over and above the preference(s) of the permittee(s) or lessee(s) in an allotment may be allocated in the following priority to:

(1) Permittee(s) or lessee(s) in proportion to their contribution or

efforts which resulted in increased forage production; or

(2) Permittee(s) or lessee(s) in proportion to their preference; or

(3) Other qualified applicants under § 4110.5 of this title.

(d) Permanent increases in allocations of livestock forage shall be implemented over a period not to exceed 5 years, except that increases of 15 percent or less of the authorized active use for the previous year shall be phased in over a period of less than 5 years. The authorized officer may subsequently modify (either increase or decrease) such allocation of forage to livestock based on the results of monitoring.

§ 4110.3-2 Decrease in forage.

(a) When authorized grazing use exceeds the amount of forage available for livestock grazing within an allotment on a temporary basis: (1) Due to drought, fire, or other natural causes, or (2) to facilitate installation, maintenance, or modification of range improvements, grazing permits or leases may be suspended in whole or in part.

(b) When authorized grazing use, which includes active use and any approved nonuse, exceeds the amount of forage available and allocated for livestock grazing within an allotment, or where reduced grazing use is necessary to facilitate achieving multiple-use management objectives for the allotment, the authorized grazing use shall be reduced to the livestock grazing capacity. The difference between the authorized grazing use and the grazing preference shall be held in suspension.

(c) Provisions in paragraph (b) of this section shall be implemented over a 5-year period through mutual agreement documented in the Rangeland Program Summary, or by decision. If data acceptable to the authorized officer are available, an initial reduction shall be taken on the effective date of the decision and the balance taken in the third and fifth years following that effective date, except as provided in paragraph (d) and (e) of this section. If data acceptable to the authorized officer to support an initial reduction are not available, a decision will be issued identifying the data needed and procedures to be used for arriving at the adjustments in authorized grazing use. Adjustments based on the additional data shall be implemented by a decision that will initiate the 5 year implementation period.

(d) The authorized officer shall schedule suspensions under paragraph (b) of this section over a period of less than 5 years if, after consultation with the affected permittees or lessees and other affected interests—

(1) An agreement is reached to implement the suspension in less than 5 years;

(2) The authorized officer determines that the suspension is required within less than 5 years to sustain resource productivity, i.e., to protect the resource from substantial and long-term damage; or

(3) The total scheduled suspension is 15 percent or less of the authorized active grazing use for the previous year.

(e) Prior to implementation of each step of a phased suspension, the authorized officer shall review available information to determine whether the amount of the suspension should be modified (either increased or decreased). If the authorized officer determines that monitoring data indicate that the amount of a scheduled suspension should be modified, a new decision shall be issued under Subpart 4160 of this title. However, such new decision shall not extend an implementation schedule established in the original decision.

§ 4110.4 Changes in public land acreage.

§ 4110.4-1 Additional land acreage.

When lands outside designated allotments become available for livestock grazing under the administration of the Bureau of Land Management, the livestock forage available may be allocated to qualified applicants at the discretion of the authorized officer. Grazing use shall be allocated under § 4110.5 of this title.

§ 4110.4-2 Decrease in land acreage.

(a) Where there is a decrease in public land acreage available for livestock grazing use within an allotment, grazing permits or grazing leases and grazing preferences shall be canceled in whole or in part. The cancellations will be equitably apportioned by the authorized officer or as agreed to among authorized users and the authorized officer.

(b) When public lands are disposed of or devoted to a public purpose which precludes livestock grazing, the permittees and lessees shall be given 2 years' prior notification except in cases of emergency (military defense requirements in time of war, natural disasters, national emergency needs, etc.), before their grazing permit or grazing lease and grazing preference may be canceled in whole. A permittee or lessee may unconditionally waive the 2-year prior notification. Such a waiver shall not prejudice the permittee's or lessee's right to reasonable compensation for the fair market value of his interest in authorized permanent range improvements located on these public lands (see § 4120.6-6).

§ 4110.5 Conflicting applications.

When more than one qualified applicant applies for livestock grazing use of the same public land and/or where additional livestock forage or additional acreage becomes available, the authorized officer may allocate grazing use of such land or forage on the basis of § 4110.3-1 of this title or on the basis of any of the following factors:

(a) Historical use of the public lands (see § 4130.2(e));

(b) Proper range management and use of water for livestock;

(c) General needs of the applicants' livestock operations;

(d) Public ingress and egress across privately owned or controlled land to public lands;

(e) Topography;

(f) Other land use requirements unique to the situation.

§ 4110.6 Interest of Member of Congress.

Title 18 U.S.C. 431-433 (1970) generally prohibits a Member of or Delegate to Congress from entering into any contract or agreement with the United States. Title 41 U.S.C. 22 (1970) generally provides that in every contract or agreement to be made or entered into, or accepted by or on behalf of the United States, there shall be inserted an express condition that no Member of or Delegate to Congress shall be admitted to any share or part of such contract or agreement, or to any benefit to arise thereupon. The provisions of these laws are incorporated herein by reference and apply to all permits, leases, and agreements issued under these regulations.

Subpart 4120—Grazing Management

§ 4120.1 Allotments.

As land use plans are prepared, the authorized officer shall designate allotments where the public lands and other lands under Bureau of Land Management control are suitable and available for livestock grazing.

§ 4120.2 Terms and conditions.

Livestock grazing permits and leases shall contain terms and conditions necessary to achieve the management objectives for the public lands and other lands under Bureau of Land Management control identified in land use plans.

§ 4120.2-1 Mandatory terms and conditions.

(a) The authorized officer shall specify the kind and number of livestock, the period(s) of use, the allotment(s) to be used, and the amount of use, in animal unit months, that can be made in every grazing permit or lease. The authorized livestock grazing use shall not exceed the livestock grazing capacity and shall be limited or excluded to the extent necessary to achieve the objectives established for the allotment.

(b) If it has been determined that allotment management plans are not necessary, or if allotment management plans have not been implemented where they are needed, the authorized officer shall incorporate terms and

conditions under this section in grazing permits or leases. The authorized officer shall modify these terms and conditions if the condition of the range requires modification of grazing use and may cancel grazing permits or grazing leases and grazing preferences as conditions warrant. These modifications and cancellations may be made at any time.

(c) All permits and leases shall be made subject to cancellation, suspension or modification, as required by land use plans, and subject to applicable law.

(d) All permits and leases shall include the provisions that such permits and leases shall be subject to annual review, and to modification in accordance with applicable law.

§ 4120.2–2 Other terms and conditions.

The authorized officer may specify in grazing permits or leases other terms and conditions which will assist in achieving management objectives, provide for proper range management, or assist in the orderly administration of the public rangelands. This may include, but is not limited to–

(a) The class of livestock that will graze on an allotment;

(b) The breed of livestock in allotments within which two or more permittees or lessees are authorized to graze;

(c) Authorization to use, and directions for placement of supplemental feed, including salt, for improved livestock and rangeland management on the public lands;

(d) A requirement that permittees or lessees, operating under a grazing permit or lease, submit within 15 days after completing their annual grazing use, or as otherwise specified in the permit or lease, the certified actual use made;

(e) The kinds of indigenous animals authorized to graze under specific terms and conditions;

(f) Provision for livestock grazing to be temporarily delayed, discontinued or modified to provide for the reproduction, establishment or restoration of vigor of plants, or to prevent compaction of wet soils, such as where delay of spring turnout is required because of weather conditions or lack of plant growth; and

(g) The percentage of public land use determined by the proportion of livestock forage available on public lands within the allotment compared to the total amount available from both public lands and those owned or controlled by the permittee or lessee.

§ 4120.2–3 Allotment management plans.

If the authorized officer elects to develop an allotment management plan, the following provisions apply:

(a) An allotment management plan shall be prepared in careful and considered consultation, cooperation and coordination with affected permittee(s) or lessee(s), landowners involved, the district grazing advisory boards where established, any State having lands within the area to be covered by such an allotment management plan and other affected interests. Allotment management plans shall be implemented when approved by the authorized officer (see § 4100.0–5(d) of this title). The allotment management plan shall include terms and conditions under § 4120.2–1 of this title, and shall prescribe a system of grazing designed to meet specific multiple-use management objectives. The plan shall specify the limits of flexibility within which the permittee or lessee may adjust their operations without prior approval of the authorized officer. The plan shall provide for the collection of data that shall be used to evaluate the effectiveness of management actions in achieving the specific multiple-use management objectives of the plan.

(b) Private and State lands shall be included in the allotment management plan if these lands are unfenced and are intermingled with the public lands in the allotment or with the consent or at the request of the party who owns or controls these lands.

(c) Allotment management plans may be revised or terminated by the authorized officer after review and careful and considered consultation, cooperation, and coordination with the affected interests.

(d) If allotment management plans have been prepared, the authorized officer shall incorporate these plans in grazing permits or leases when they are issued. If grazing permits or leases have been issued prior to the preparation of allotment management plans, the authorized officer shall incorporate the allotment management plans in the grazing permits or leases when these plans are completed.

(e) Permittees or lessees operating under a grazing permit or lease incorporating an allotment management plan shall, within 15 days after completing their annual grazing use, or as otherwise specified in the permit or lease, submit a certified actual use report.

(f) Decisions which specify that the terms and conditions of allotment management plans are incorporated into grazing permits or leases may be protested and appealed under Subpart 4160 of this title.

§ 4120.3 Temporary modifications and closures to livestock use.

When the authorized officer determines that the soil, vegetation, or other resources on the public lands require temporary protection because of conditions such as drought, fire, flood, or insect infestation, and after consultation with affected permittees or lessees and other affected interests, action shall be taken either to close allotments or portions of allotments to grazing by any kind of livestock or to modify authorized grazing use.

(a) Notices of closure and decisions requiring modification of authorized grazing use shall be issued as final decisions which are placed in full force and effect under § 4160.3(c) of this title; and shall—

(1) State the reasons for the action;

(2) Specify the period of time during which the closure or modification will remain in effect and/or describe the resource conditions that must be present before the regularly authorized grazing use may resume;

(3) Be served personally or by certified mail to those who are authorized to graze livestock on the allotments affected;

§ 4120.4 Ownership and identification of livestock.

(a) The permittee or lessee shall own or control and be responsible for the management of the livestock which graze the public lands under a grazing permit or lease.

(b) All cattle, horses, and burros over 6 months of age shall carry a brand which has been filed with the authorized officer. All sheep and goats over 6 months of age shall be identified with an earmark, paint brand, or other marking that has been filed with the authorized officer.

(c) The authorized officer may exempt certain livestock from the minimum requirements under paragraph (b) of this section. An alternative method of identifying the livestock satisfactory to the authorized officer shall be used in such instances.

(d) The authorized officer may require counting and/or additional or special marking or tagging of the authorized livestock in order to control unauthorized grazing use or in order to otherwise promote the orderly administration of the public lands.

§ 4120.5 State livestock requirements.

Authorized users shall comply with the requirements of the State in which the public lands are located relating to: branding of livestock; breed, grade, and number of bulls; and health and sanitation requirements.

§ 4120.6 Range improvements.

§ 4120.6–1 Conditions for range improvements.

(a) Range improvements shall be installed, used, maintained, and/or modified on the public lands, or removed from these lands, in a manner consistent with multiple use management.

(b) Prior to installing, using, maintaining, and/or modifying range improvements on the public lands, permittees or lessees shall have entered into a cooperative agreement with the Bureau of Land Management or must have an approved range improvement permit.

(c) The authorized officer may re-

quire a permittee or lessee to maintain and/or modify range improvements on the public lands under § 4120.2–2 of this title.";

(d) The authorized officer may require a permittee or lessee to install range improvements on the public lands in an allotment with 2 or more permittees or lessees and/or to meet the terms and conditions of an agreement.

(e) A range improvement permit or cooperative agreement does not convey to the permittee or cooperator right, title, or interest in any lands or resources held by the United States.

§ 4120.6–2 Cooperative agreements.

Any permittee or lessee may enter into a cooperative agreement with the Bureau of Land Management for the installation, use, maintenance, and/or modification of range improvements needed to achieve management objectives within his designated allotment. The cooperative agreement shall specify the division of cost or labor, or both, between the United States and permittees or lessees. The United States shall have title to range improvements authorized under cooperative agreements.

§ 4120.6–3 Range improvement permits.

(a) Any permittee or lessee may apply for a range improvement permit to install, use, maintain, and/or modify range improvements that are needed to achieve management objectives within his designated allotment. The permittee or lessee shall agree to provide full funding for construction, installation, modification, or maintenance. Such range improvement permits are issued at the discretion of the authorized officer.

(b) The permittee or lessee shall have title to removable range improvements authorized under range improvement permits.

(c) The use by livestock of stock ponds or wells on public lands which are recognized as base water under §4110.2–1 of this title and those authorized by a range improvement permit shall be controlled by the grazing permittee or lessee holding the range improvement permit.

§ 4120.6–4 Standards, design and stipulations.

Range improvement cooperative agreements and permits shall specify the standards, design, construction and maintenance criteria for the range improvements and other additional conditions and stipulations or modifications deemed necessary by the authorized officer. Where an existing range improvement is significantly inconsistent with established design criteria, the authorized officer may require such improvement be improved or modified to meet established standards through modification of the cooperative agreement or permit. The authorization for improvements may be cancelled for failure to comply with such criteria.

§ 4120.6–5 Assignment of range improvements.

The authorized officer shall not approve the transfer of a grazing preference under § 4110.2–3 nor approve use by the transferee of existing range improvements, unless the transferee has agreed to compensate the transferor for fair market value of his interest in the authorized improvements within the allotment as of the date of transfer. If the parties are unable to agree as to the amount or manner of reasonable compensation, the matter shall be resolved by the authorized officer.

§ 4120.6–6 Removal and compensation for loss of range improvements.

(a) Range improvements shall not be removed from the public lands without authorization.

(b) The authorized officer may require permittees or lessees to remove range improvements which they own on the public lands if these improvements are no longer serving the purpose for which they were installed or if they fail to meet the criteria under § 4120.6–4.

(c) If grazing permits or leases and grazing preferences are canceled in whole or in part because the public lands are being disposed of or devoted to a public purpose which precludes livestock grazing, the permittees or lessees shall receive fair market value from the United States for their interest in the authorized permanent range improvements located on the public lands (less salvage value) which will no longer be available for livestock grazing.

(d) Permittees or lessees may be allowed a period of 180 days from the date of cancellation of a range improvement permit to salvage material owned by them and perform rehabilitation measures necessitated by the removal.

§ 4120.6–7 Contributions.

The authorized officer may accept contributions of labor, material, equipment, or money for administration, protection, and improvement of the public lands necessary to achieve the objectives of this part.

§ 4120.7 Cooperation in management.

The Bureau of Land Management may cooperate with Federal, State, and/or local governmental entities, institutions, organizations, corporations, associations, and individuals to achieve the objectives of this part.

§ 4120.8 Special rules.

When a State Director determines that local conditions require a special rule to achieve improved administration consistent with the objective of this part, the Director may approve such rules. The rules shall be subject to public review and comment, as appropriate, and upon approval, shall become effective when published in the Federal Register as final rules. Special rules shall be published in a local newspaper.

Subpart 4130—Authorizing Grazing Use

§ 4130.1 Applications.

Applications for grazing permits or leases (active use and nonuse), free-use grazing permits and other grazing authorizations shall be filed timely with the authorized officer at the local Bureau of Land Management office having jurisdiction over the public lands involved.

§ 4130.2 Grazing permits or leases.

(a) The Bureau of Land Management shall offer grazing permits or leases for a term not to exceed 10 years to qualified applicants.

(b) Grazing permits or leases shall be issued to authorize livestock grazing on the public lands and other lands under the administration of the Bureau of Land Management. These grazing permits or leases shall specify terms and conditions as required by § 4120.2 of this title.

(c) Grazing permits or leases convey no right, title, or interest held by the United States in any lands or resources.

(d) (1) Grazing permits or leases authorizing livestock grazing on the public lands and other lands under administration of the Bureau of Land Management shall be issued for a term of 10 years, unless: (i) The land is pending disposal; (ii) the land will be devoted to a public purpose which precludes grazing prior to the end of 10 years; or (iii) it will be in the best interest of sound land management to specify a shorter term.

(2) Exceptions to the issuance of a grazing permit or lease for a term of 10 years shall be made on a case-by-case basis.

(3) Grazing permits or leases shall be modified, suspended, or canceled as required by land use planning decisions.

(4) Grazing permits or leases shall be subject to annual review and modification of terms and conditions as appropriate.

(e) Permittees or lessees holding expiring grazing permits or leases shall be given first priority for receipt of new permits or leases if:

(1) The lands remain available for livestock grazing in accordance with **multiple use management (See § 4120.1 of this title).**

(2) The permittee or lessee is in compliance with the regulations contained in this part and the terms and conditions of his grazing permit or lease;

(3) The permittee or lessee accepts the terms and conditions to be included in the new permit or lease by the authorized officer; and

(4) The base property offered by a grazing lessee is contiguous to the public lands to be grazed or, if noncon-

tiguous, there are no conflicting applications submitted by those offering qualified base property which would be contiguous to the public lands to be grazed.

[43 FR 29067, July 5, 1978, as amended at 45 FR 47105, July 11, 1980; 46 FR 5790, Jan. 19, 1981; 46 FR 12496, Feb. 17, 1981]

§ 4130.3 Free-use grazing permits.

A free-use grazing permit shall be issued to any applicant whose residence is adjacent to public lands within grazing districts and who needs these public lands to support those domestic livestock owned by the applicant whose products or work are used directly and exclusively by the applicant and his family. The issuance of free-use grazing permits is subject to § 4110.5. These permits shall be issued on an annual basis. These permits cannot be transferred or assigned.

§ 4130.4 Other grazing authorizations.

Exchange-of-use grazing agreements, nonrenewable grazing permits or leases, crossing permits, and special grazing permits or leases have no priority for renewal and cannot be transferred or assigned.

§ 4130.4–1 Exchange-of-use grazing agreements.

(a) An exchange-of-use grazing agreement may be issued to any applicant who owns or controls lands which are unfenced and intermingled with public lands when use under such an agreement would be in harmony with the management objectives for the allotment.

(b) The lands offered for exchange-of-use shall be within the exterior boundaries of the allotment, except lands outside such boundaries may be included only where it would meet multiple use objectives for the allotment.

(c) An exchange-of-use grazing agreement may be issued to authorize use of public lands to the extent of the livestock grazing capacity of the lands offered in exchange-of-use. No fee shall be charged for this grazing use.

(d) The exchange-of-use grazing agreement may be issued for a term of not more than 10 years.

(e) During the term of the exchange-of-use grazing agreement, the Bureau of Land Management shall have management control for grazing purposes of such nonfederally owned or controlled lands under the provisions of this part and may authorize grazing use as deemed appropriate.

[45 FR 47105, July 11, 1980]

§ 4130.4–2 Nonrenewable grazing permits or leases.

Nonrenewable grazing permits or leases may be issued on an annual basis to qualified applicants when forage is temporarily available, provided this use is consistent with multiple-use objectives and does not interfere with existing livestock operations on the public lands.

§ 4130.4–3 Crossing permits.

Any applicant showing the necessity for crossing the public land or other land under Bureau of Land Management control, or both, with livestock for proper and lawful purposes may be issued a crossing permit upon such terms and conditions deemed necessary by the authorized officer to achieve the objectives of this part.

§ 4130.4–4 Special grazing permits or leases.

Special grazing permits or leases authorizing grazing use by privately owned or controlled indigenous animals may be issued at the discretion of the authorized officer. This use shall be consistent with multiple-use objectives. These permits or leases shall be issued for a term deemed appropriate by the authorized officer not to exceed 10 years.

§ 4130.5 Fees.

§ 4130.5–1 Payment of fees.

(a) Grazing fees shall be established annually by the Secretary based upon the grazing fee formula in the Public Rangelands Improvement Act of 1978 (43 U.S.C. 1901).

(b) The fees for each grazing fee year shall be published annually in the FEDERAL REGISTER.

(c) Fees shall be charged for livestock grazing upon or crossing the public lands and other lands administered by the Bureau of Land Management at a specified rate per animal unit month. A minimum annual fee of $10 shall be charged for livestock grazing upon these lands.

(d) The full fee shall be charged for each paying animal unit, which is defined as each animal six (6) months of age or over at the time of entering public lands, for all weaned animals regardless of age, and for such animals as will become twelve (12) months of age during the authorized period of use. No charge will be made for animals under six (6) months of age at the time of entering public lands, that are the natural progeny of animals upon which fees are paid, provided they will not become twelve (12) months of age during the authorized period of use, or for progeny born during that period.

(e) Fees are due upon issuance of the billing notice and shall be paid in full prior to grazing use except where an allotment management plan providing for later payment has been incorporated in a grazing permit or lease. In such cases, a billing notice based on certified actual use may be issued at the end of the grazing period or year, or a billing notice based on the normal operation may be issued prior to the grazing period or year followed by an adjusted billing notice based on certified actual use after grazing use has been completed. If a certified actual use report is not submitted, the amount due shall be based on grazing use at the upper limit of flexibility specified in the allotment management plan. Actual use billing privileges shall be cancelled by the authorized officer where the permittee or lessee fails or refuses to:

(1) Submit a timely certified actual use report; or

(2) Make timely payment upon issuance of a billing notice based upon a certified actual use report or, if the actual use report has not been submitted, the upper limit of flexibility specified in the allotment management plan.

In any event, the permittee or lessee is not relieved of the responsibility for submitting a certified actual use report under § 4120.2–3(e) of this title.

§ 4130.5–2 Refunds.

(a) Grazing fees may be refunded where applications for change in grazing use and related refund are filed prior to the period of use for which the refund is requested.

(b) No refunds shall be made for failure to make grazing use, except during periods of range depletion due to drought, fire, or other natural causes, or in case of a general spread of disease among the livestock, that occurs during the term of a permit or lease. During these periods of range depletion the authorized officer may credit or refund fees in whole or in part, or postpone fee payment for as long as the emergency exists.

§ 4130.5–3 Service charge.

A service charge shall be assessed for each crossing permit, transfer of grazing preference and each replacement or supplemental billing notice except for actions initiated by the authorized officer. Pursuant to section 304(a) of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1734(a)), calculation of the Bureau service charge assessed shall reflect processing costs and shall be adjusted periodically as costs change. Notice of changes shall be published periodically in the Federal Register.

§ 4130.6 Changes in grazing use.

(a) Applications for changes in grazing use should be filed with the authorized officer before the billing notices for the affected grazing use have been issued. Applications for changes in grazing use filed after the billing notices for the affected grazing use have been issued and which require the issuance of replacement or supplemental billing notices shall be subject to a service charge under § 4130.5–3.

(b) Changes in grazing use may be granted by the authorized officer.

§ 4130.7 Pledge of permits or leases as security for loans.

Grazing permits or leases that have been pledged as security for loans from lending agencies shall be renewed by the authorized officer under the provisions of these regulations for a period of not to exceed 10 years if the loan is for the purpose of furthering the permittee's or lessee's livestock operation, *Provided*, That the permittee or lessee has complied with the rules and regulations of this part and that such renewal will be in accordance with other applicable laws and regulations. While grazing permits or leases may be pledged as security for loans from lending agencies, this does not exempt these permits or leases from the provisions of these regulations.

Subpart 4140—Prohibited Acts

§ 4140.1 Acts prohibited on public lands.

The following acts are prohibited on public lands and other lands administered by the Bureau of Land Management:

(a) Persons performing the following prohibited acts may be subject to civil penalties under § 4170.1:

(1) Violating special terms and conditions incorporated in permits or leases;

(2) Failing to make substantial grazing use as authorized for 2 consecutive fee years;

(3) Placing supplemental feed on these lands without authorization;

(4) Failing to comply with the terms, conditions, and stipulations of range improvement cooperative agreements or range improvement permits;

(5) Refusing to install, maintain, modify, or remove range improvements when so directed by the authorized officer.

(b) Persons performing the following prohibited acts may be subject to civil and criminal penalties under §§ 4170.1 and 4170.2:

(1) Allowing livestock or other privately owned or controlled animals to graze on or be driven across these lands——

(i) Without a permit, lease or other grazing use authorization;

(ii) In violation of the terms and conditions of a permit, lease, or other grazing use authorization including, but not limited to, livestock in excess of the number authorized;

(iii) In an area or at a time different from that authorized; or

(iv) Failing to comply with a requirement under § 4120.4(d) of this title.

(2) Installing, using, maintaining, modifying, and/or removing range improvements without authorization;

(3) Cutting, burning, spraying, destroying, or removing vegetation without authorization;

(4) Damaging or removing U.S. property without authorization;

(5) Molesting livestock authorized to graze on these lands;

(6) Littering;

(7) Violating any provision of Part 4700 of subchapter concerning the protection and management of wild free-roaming horses and burros;

(8) Violating any Federal or State laws or regulations concerning conservation or protection of natural and cultural resources or the environment including, but not limited to, those relating to air and water quality, protection of fish and wildlife, plants, and the use of chemical toxicants;

(9) Interfering with lawful uses of users;

(10) Knowingly or willfully making a false statement or representation in base property certifications, grazing applications, range improvement permit applications, cooperative agreements, certified actual use reports, and/or amendments thereto;

(11) Violating State livestock requirements relating to branding of livestock; breed, grade, and number of bulls; and health and sanitation requirements.

Subpart 4150—Unauthorized Grazing Use

§ 4150.1 Violations.

Violation of § 4140.1(b)(1) constitutes unauthorized grazing use. Violators shall be liable in damages to the United States for the forage consumed by their livestock, for injury to Federal property caused by their unauthorized grazing use, and for expenses incurred in impoundment and disposal of their livestock and may be subject to civil penalities or criminal sanction for such unlawful acts.

§ 4150.2 Notice and order to remove.

(a) Whenever it appears that a violation exists and the owner of the unauthorized livestock is known, written notice of unauthorized use and order to remove livestock by a specified date shall be served upon the alleged violator or the agent of record, or both, by certified mail or personal delivery. The written notice shall also allow a specified time from receipt of notice for the alleged violator to show that there has been no violation or to make settlement under § 4150.3.

(b) When neither the owner of the unauthorized livestock nor his agent is known, the authorized officer may proceed to impound the livestock under § 4150.5.

(c) A notice alleging unauthorized horse or burro use in areas with wild free-roaming horses and burros shall specify that the unauthorized horses or burros can be claimed and gathered only in accordance with the procedures of Part 4700 of this subchapter.

§ 4150.3 Settlement.

The authorized officer shall determine if the violation is nonwillful or willful. When violations are determined to be nonwillful, settlement shall be made under paragraphs (a)(1), (a)(4) and (a)(5) of this section. When violations are determined to be repeated nonwillful, settlement shall be made under paragraphs (a)(2), (a)(4) and (a)(5) of this section. When violations are determined to be willful or repeated willful, settlement shall be made under paragraphs (a)(3), (a)(4) and (a)(5) of this section. Where violations are repeated nonwillful or willful, the authorized officer may take action under § 4170.1–1(a) of this title. Where violations are repeated willful, the authorized officer shall take action under § 4170.1–1(b) of this title.

(a) The amount due the United States in settlement for unauthorized grazing use shall be determined by the authorized officer as follows:

(1) "Nonwillful violations." The value of forage consumed as determined by the average monthly rate for pasturing livestock on privately owned land (excluding irrigated land) for the 11 Western States as published annually by the Department of Agriculture.

(2) "Repeated non-willful violations." Twice the value of the forage consumed as determined in paragraph (a)(1) of this section.

(3) "Willful and repeated willful violations." Three times the value of the forage consumed as determined in paragraph (a)(1) of this section.

(4) The full value for all damages to the public lands and other property of the United States.

(5) All expenses incurred by the United States including those incurred in gathering, impounding, caring for, and disposing of livestock in cases which necessitate impoundment under § 4150.5.

(b) Payment made under this section does not relieve the alleged violator of any criminal liability under Federal or State law.

(c) Violators shall not be authorized to make grazing use on the public lands or other lands administered by the Bureau of Land Management until any amount found to be due the United States under this section has been paid. The authorized officer may take action under §4160.1–2 of this title, to cancel or suspend grazing authorizations or to deny approval of applications for grazing use until such amounts have been paid. The proposed decision shall include a demand for payment.

§ 4150.4 Impoundment and disposal.

Unauthorized livestock remaining on the public lands or other lands under Bureau of Land Management control, or both, after the date set forth in the notice and order to remove sent under § 4150.2 may be impounded and dis-

posed of by the authorized officer as provided herein.

§ 4150.4–1 Notice of intent to impound.

(a) A written notice of intent to impound shall be sent by certified mail or personally delivered to the owner or his agent, or both. The written notice shall indicate that unauthorized livestock on the specified public lands or other lands under Bureau of Land Management control, or both, may be impounded any time after 5 days from delivery of the notice.

(b) Where the owner and his agent are unknown, or where both a known owner and his agent refuses to accept delivery, a notice of intent to impound shall be published in a local newspaper and posted at the county courthouse and a post office near the public land involved. The notice shall indicate that unauthorized livestock on the specified public lands or other lands under Bureau of Land Management control, or both, may be impounded any time after 5 days from publishing and posting the notice.

(c) To deter unauthorized use from occuring within a specific area, a notice of intent to impound any livestock other than those authorized in the area described in the notice, shall be published under procedures in paragraph (b) of this section.

§ 4150.4–2 Impoundment.

After 5 days from delivery of the notice under § 4150.4–1(a) of this title or any time after 5 days from publishing and posting the notice under §§ 4150.4–1(b) or 4150.4–1(c) of this title, unauthorized livestock may be impounded without further notice any time within the 12-month period following the effective date of the notice.

§ 4150.4–3 Notice of public sale.

Following the impoundment of livestock under this subpart the livestock may be disposed of by the authorized officer under these regulations or, if a suitable agreement is in effect, they may be turned over to the State for disposal. If the authorized officer disposes of the livestock, he shall publish a notice of sale in a local newspaper and post his notice at the county courthouse and at a post office near the land involved. The notice shall describe the livestock and specify the date, time, and place of sale. The sale date shall be at least 5 days after the publication and posting of the notice. Any known owners or agents, or both, shall be notified in writing by certified mail or by personal delivery of the sale and the procedure by which the impounded livestock may be redeemed prior to the sale.

§ 4150.4–4 Redemption.

Any owner or his agent, or both, or lien-holder of record of the impounded livestock may redeem them under these regulations or, if a suitable agreement is in effect, in accordance with State law, prior to the time of sale upon settlement with the United States under § 4150.3 or adequate showing that there has been no violation.

§ 4150.4–5 Sale.

If the livestock are not redeemed on or before the date and time fixed for their sale, they shall be offered at public sale to the highest bidder by the authorized officer under these regulations or, if a suitable agreement is in effect, by the State. If a satisfactory bid is not received, the livestock may be reoffered for sale, condemned and destroyed, or otherwise disposed of under these regulations or, if a suitable agreement is in effect, in accordance with State law.

Subpart 4160—Administrative Remedies

§ 4160.1 Proposed decisions.

§ 4160.1–1 Proposed decisions on permits or leases.

The authorized officer shall serve a proposed decision on any applicant, permittee or lessee, or the agent of record, or both, who is affected by the proposed action on applications for permits (including range improvement permits) or leases, or by the proposed action relating to terms and conditions of permits (including range improvement permits) or leases, by certified mail or personal delivery. The authorized officer shall also send copies to those who have indicated in writing that their interests may be affected by the proposed decision. The proposed decision shall state reasons for the action, including reference to pertinent terms, conditions and/or provisions of these regulations, and shall provide for a period of 15 days after receipt for the filing of a protest.

(a) Following completion of each grazing environmental impact statement and land use plan, the authorized officer shall prepare and distribute for public information a summary document or appropriate updates for the area before issuing proposed decisions to grazing permittees or lessees which would adjust livestock grazing use under §§4110.3–1(b) or 4110.3–2(b) of this title, unless a specific exception is approved by the State Director on a case-by-case basis because resource conditions require more immediate action.

(b) Updates to the summary document shall be prepared prior to each subsequent adjustment scheduled under § 4110.3 of this title.

(c) The authorized officer shall include in proposed decisions which would adjust livestock grazing use under § 4110.3–1(b) or § 4110.3–2(b) of this title the recognized grazing preference, the allocation of forage to livestock, the specific schedule for implementing the adjustments, the specific management objectives for the allotment, the resource values to be evaluated to determine progress in meeting these objectives, the changes in these values that would warrant a modification of the scheduled adjustments and other information necessary to set forth actions required to achieve the required management objectives for the allotment.

[46 FR 5791, Jan. 19, 1981]

§ 4160.1–2 Proposed decisions on alleged violations.

If the authorized officer determines that a permittee or lessee appears to have violated any provision of this part he shall serve a proposed decision on the permittee or lessee, or his agent, or both, by certified mail or personal delivery of the proposed decision. The proposed decision shall state the alleged violation and refer to the specific terms, conditions, and/or provisions of these regulations alleged to have been violated and the reasons for the proposed decision. As applicable, the proposed decision shall state the amount due under § 4130.5–1 or § 4150.3 and the action to be taken under § 4170.1. The proposed decision shall provide for a period of 15 days after receipt for the filing of a protest.

§ 4160.2 Protests.

Any applicant, permittee, lessee or other adversely affected interests may protest the proposed decision under § 4160.1 of this title in person or in writing to the authorized officer within 15 days after receipt of such decision.

§ 4160.3 Final decisions.

(a) In the absence of a protest, the proposed decision shall become the final decision of the authorized officer without further notice.

(b) Upon the timely filing of a protest, the authorized officer shall reconsider his proposed decision in light of the protestant's statement of reasons for protest and in light of other information pertinent to the case. At the conclusion to his review of the protest, the authorized officer shall serve his final decision on the protestant or his agent, or both, and on any other known affected interests.

(c) A period of 30 days after receipt of the final decision is provided for filing an appeal. Decisions that are appealed shall be suspended pending final action except as otherwise provided in this section. Except where grazing use the preceding year was authorized on a temporary basis under § 4110.3–1(a) of this title, an applicant who was granted grazing use in the preceding year may continue at that level of authorized active use pending final action on the appeal except as further provided in paragraphs (d) and

(e) of this section. However, if the authorized officer places the final decision in full force and effect, it shall take effect on the date specified, regardless of appeal.

(d) The following provisions apply to final decisions which utilize a 5-year implementation schedule:

(1) Decisions in the fifth year of a 5-year implementation schedule may be placed into full force and effect. If the decision is placed into full force and effect, an appeal of such final decision shall not suspend the operation of that decision.

(2) An appeal of the third year increment of a 5-year decision shall suspend implementation of the decision and grazing use shall be authorized at the level scheduled for the first year of the phase-in period.

(3) An application for grazing use in excess of that established for any year of an implementation schedule, or an appeal from a decision rejecting such application shall not suspend the operation of the 5-year implementation schedule.

(e) Where a decision that provides for total implementation of an action within a specified period of time is appealed and the decision is upheld, the final date for completing implementation shall remain as specified in the decision or 30 days from the effective date of the decision on the appeal, whichever is later.

§ 4160.4 Appeals.

Any applicant, permittee, lessee, or any other person whose interest is adversely affected by a final decision of the authorized officer may appeal the decision for the purpose of a hearing before an administrative law judge under § 4.470 of this title by filing his notice of appeal in the office of the authorized officer within 30 days after the receipt of the decision.

Subpart 4170—Penalties

§ 4170.1 Civil penalties.

§ 4170.1-1 Penalty for violations.

(a) The authorized officer may withhold issuance of a grazing permit or lease, or suspend the grazing use authorized under a grazing permit or lease, in whole or in part, or cancel a grazing permit or lease and grazing preference, or a free use grazing permit or other grazing authorization, in whole or in part, under Subpart 4160 of this title, for violation by a permittee or lessee of any of the provisions of this part.

(b) The authorized officer shall suspend the grazing use authorized under a grazing permit, in whole or in part, or shall cancel a grazing permit or lease and grazing preference, in whole or in part, under Subpart 4160 of this title for repeated willful violation by a permittee or lessee of § 4140.1(b)(1) of this title.

(c) Whenever a nonpermittee or nonlessee violates § 4140.1(b) of this title and has not made satisfactory settlement under § 4150.3 of this title the authorized officer shall refer the matter to proper authorities for appropriate legal action by the United States against the violator.

[46 FR 5792, Jan. 19, 1981]

§ 4170.1-2 Failure to use.

Failing to make substantial grazing use as authorized for 2 consecutive fee years may result in the cancellation of the grazing preference only to the extent of failure to use (see § 4140.1(a)(2)).

§ 4170.1-3 Federal or State laws or regulations.

Violation of § 4140.1(b)(8) may result in a penalty under § 4170.1-1 where:

(a) Public land administered by the Bureau of Land Management is involved or affected;

(b) Such violation is related to grazing use authorized by permit or lease; and

(c) The permittee or lessee has been convicted of or otherwise found to be in violation of any of these laws or regulations by a court or by final determination of any agency charged with the administration of the conservation or environmental laws where no further appeals are outstanding.

[43 FR 29067, July 5, 1978, as amended at 46 FR 5792, Jan. 19, 1981]

§ 4170.2 Penal provisions.

§ 4170.2-1 Penal provisions under the Taylor-Grazing Act.

Under section 2 of the Act any person who willfully violates the provisions of § 4140.1(b) or of approved special rules and regulations is punishable by a fine of not more than $500.

§ 4170.2-2 Penal provisions under the Federal Land Policy and Management Act.

Under section 303(a) of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1701 et seq.), any person who knowingly and willfully violates the provisions of § 4140.1(b) or of approved special rules and regulations may be brought before a designated U.S. magistrate and is punishable by a fine of not more than $1,000 or imprisonment for no more than 12 months or both.

Garrey E. Carruthers,
Assistant Secretary of the Interior.
August 12, 1982.

INT 81-83

Bureau of Land Management

43 CFR Part 2820

[Circular No. 2515]

Roads and Highways; Revocation of Regulations Concerning Roads and Highways

Under the authority of sections 107(d) and 317 of Title 23 of the United States Code (72 Stat. 885, 892 and 916) and section 307 of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1737), Group 2800, Subchapter B, Chapter II of Title 43 of the Code of Federal Regulations is amended as follows:

List of Subjects in 43 CFR Part 2880

Highways and roads, Public lands—rights-of-way.

PART 2820—ROADS AND HIGHWAYS [REMOVED]

1. Part 2820 is removed in its entirety.

Dated September 8, 1982.

Garrey E. Carruthers,

Assistant Secretary of the Interior.

[FR Doc. 82-26578 Filed 9-27-82; 8:45 am]

Published 47 F.R. 188 September 28, 1982 - Effective Date October 28, 1982
Circular Distribution List

GPO 838-328

#2515

(28) Regulation Number 7 is part of the plan.

[FR Doc. 82-26575 Filed 9-27-82; 8:45 am]

BILLING CODE 6560-50-M

DEPARTMENT OF THE INTERIOR

Office of Hearings and Appeals

43 CFR Part 4

Department Hearings and Appeals Procedures

AGENCY: Office of Hearings and Appeals, Interior.

ACTION: Revocation of regulations.

SUMMARY: Subpart H of this title was issued to prescribe procedures for hearings and appeals under Exec. Order No. 11246, *as amended* by Exec. Order No. 11375. These functions were transferred to the Department of Labor by Exec. Order No. 12086, thus making 43 CFR Part 4, Subpart H, obsolete and requiring its revocation. A proposal to revoke this rule was published for public comment on May 27, 1980 (45 FR 35351). No comments were received. Subpart K of this title was issued to prescribe procedures for hearings and appeals of disenrollment contests for Alaska Natives under the Alaska Native Claims Settlement Act, 43 U.S.C. 1604. The deadline to file disenrollment contests (October 1, 1978) has passed (*see* 25 CFR 43h.15(h)) and all contests have been concluded in the administrative and judicial forums, thus making 43 CFR Part 4, Subpart K, obsolete and requiring its revocation. A proposal to revoke this rule was published for public comment on May 27, 1980 (45 FR 35351). No comments were received.

EFFECTIVE DATE: September 28, 1982.

FOR FURTHER INFORMATION CONTACT: Kathryn Lynn, Attorney-Adviser, Office of Hearings and Appeals, (703) 235-3816.

SUPPLEMENTARY INFORMATION: The Department of the Interior has determined that this document is not a significant rule as defined in Exec. Order No. 12291, and does not require a regulatory analysis under the regulatory Flexibility Act (Pub. L. 96-354). Furthermore, the Department has determined that the revocation of these rules will not adversely affect the human environment within the meaning of the National Environmental Policy Act of 1969, *as amended* (42 U.S.C. 4321-4361 (1976)).

PART 4—DEPARTMENT HEARINGS AND APPEALS PROCEDURES

Subpart H—§§ 4.750-4.792 [Reserved]

Subpart K—§§ 4.1000-4.1011 [Reserved]

Under the authority of the Secretary of the Interior contained in 5 U.S.C. 301, 43 CFR Part 4, Subparts H and K are hereby revoked and reserved.

Dated: August 31, 1982.

Donald Paul Hodel,

Under Secretary.

[FR Doc. 82-26587 Filed 9-27-82; 8:45 am]

BILLING CODE 4310-10-M

Bureau of Land Management

43 CFR Part 2820

[Circular No. 2515]

Roads and Highways; Revocation of Regulations Concerning Roads and Highways

AGENCY: Bureau of Land Management, Interior.

ACTION: Final rulemaking.

SUMMARY: This final rulemaking revokes the existing regulations concerning the granting of right-of-way to State agencies by the Bureau of Land Management in coordination with the Federal Highway Administration. These regulations are burdensome, counterproductive and are no longer needed. They will be replaced by an interagency agreement between the Department of the Interior and the Department of Transportation as authorized by section 307 of the Federal Land Policy and Management Act.

EFFECTIVE DATE: October 28, 1982.

ADDRESS: Any suggestions or inquiries should be sent to: Director (330), Bureau of Land Management, 1800 C Street NW., Washington, D.C. 20240.

FOR FURTHER INFORMATION CONTACT: Leon Kabat, (202) 343-5441.

SUPPLEMENTARY INFORMATION: The proposed rulemaking deleting the existing regulations on Highways and Roads—43 CFR 2820—was published in the **Federal Register** on May 10, 1982 (47 FR 20009). Comments were invited for a 30-day period during which time three comments were received. Two of the comments were from States and the third comment come from a Federal agency. All of the comments have been reviewed and given careful consideration as part of the decisionmaking process on the final rulemaking.

The comments expressed the view that the process now used for granting of rights-of-way under the existing regulations, while it may be burdensome and counterproductive, is understood by those involved in the process and is less burdensome than similar processes used by other Federal agencies under a memorandum of understanding. In responses to the suggestions made in the comments, the Department of the Interior is working with the Department of Transportation in the development of an interagency agreement that will simplify the procedure for granting rights-of-way across Bureau of Land Management lands for State highways and roads. The process will be designed to provide the States with rights-of-way in the least burdensome manner possible, while providing adequate protection for the public lands. The Bureau of Land Management will continue its efforts in working with the States and the Federal Highway Administration to give the quickest possible service on applications for rights-of-way for State highways and roads crossing lands under its jurisdiction.

After careful consideration of the views expressed in the comments, the decision has been made to proceed with the revocation of the regulations in 43 CFR Part 2820 as proposed in the proposed rulemaking and finalized in the final rulemaking.

The principal author of this final rulemaking is Leon Kabat, Division of Rights-of-Way, Bureau of Land Management, assisted by the staff of the Office of Legislation and Regulatory Management, Bureau of Land Management.

The Department of the Interior has determined that this document is not a major rule under Executive Order 12291 and will not have a significant economic effect on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 et seq.).

Under the authority of sections 107(d) and 317 of Title 23 of the United States Code (72 Stat. 885, 892 and 916) and section 307 of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1737), Group 2800, Subchapter B, Chapter II of Title 43 of the Code of Federal Regulations is amended as follows:

List of Subjects in 43 CFR Part 2880

Highways and roads, Public lands—rights-of-way.

Dated September 8, 1982.

Garrey E. Carruthers,

Assistant Secretary of the Interior.

PART 2820—ROADS AND HIGHWAYS [REMOVED]

1. Part 2820 is removed in its entirety.

[FR Doc. 82-26578 Filed 9-27-82: 8:45 am]

BILLING CODE 4310-84-M

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

43 CFR Part 3833

[Circular No. 2516]

Recordation of Mining Claims and Filing of Annual Assessment Work or Notice of Intention To Hold Mining Claims, Mill Sites, or Tunnel Sites

Under the authority of section 314 of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1744), and the general mining laws (R.S. 2319 *et seq.*, 30 U.S.C. 22 *et seq.*), Subpart 3833, Part 3830, Group 3800, Subchapter II of Title 43 of the Code of Federal Regulations is amended as follows:

PART 3830—[AMENDED]

Subpart 3833—Recordation of Mining Claims and Filing Proof of Annual Assessment Work or Notice of Intention to Hold Mining Claims, Mill or Tunnel Sites

Note.—The information collection requirements contained in Subpart 3833 have been approved by the Office of Management and Budget under 44 U.S.C. 3507 and assigned clearance number 1004–0114. The information is being collected to meet the requirements of section 314 of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1744) to allow the Bureau of Land Management to record mining claims and annual filings (evidence of annual assessment work or notice of intent to hold) properly. This information will be used to verify that the claimant continued to have an interest in the mining claims or sites as provided for in the statute. The obligation to respond is mandatory.

1. Section 3833.0–1 *Purpose* is revised to read as follows:

§ 3833.0–1 Purpose.

The purpose of the regulations is to establish procedures for:

(a) The recordation in the proper BLM office of unpatented mining claims, mill sites, or tunnel sites on federal lands;

(b) The filing in the same office of evidence of performance of annual assessment work or of a notice of intention to hold an unpatented mining claim;

(c) Notifying the proper BLM office of the transfer of an interest in unpatented mining claims, mill sites, or tunnel sites.

(d) These regulations are not intended to supersede or replace existing recording requirements under state law except when specifically changed by the provisions of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1701), and are not intended to make the Bureau office the official recording office for all ancillary documents (wills, liens, judgments, etc.) involving an unpatented mining claim, mill site or tunnel site.

2. Section 3833.0–2 *Objectives* is revised as follows:

§ 3833.0–2 Objectives.

The objectives of these regulations are:

(a) To determine the number and location of unpatented mining claims, mill sites, or tunnel sites located on Federal lands in order to assist in the surface management of those lands and the mineral resources therein;

(b) To remove any cloud on the title to those lands that may exist because they are subject to mining claims that may have been abandoned;

(c) To provide the BLM with information as to the location of active mining claims;

(d) To keep the BLM informed of transfers of interest in unpatented mining claims, mill sites, or tunnel sites.

§ 3833.0–3 [Amended]

3. Section 3833.0–3 is amended by:

A. Revising paragraph (a) to read:

(a) Section 314 (a) and (b) of the Act (43 U.S.C. 1744) require the recordation of unpatented mining claims, mill sites, and tunnel sites and the filing of information concerning annual assessment work performed or a notice of intention to hold mining claims in the proper BLM office within specified time periods. Section 314(c) of the Act sets forth the consequences of the failure to file such information or documents within the time limits prescribed.

B. Revising paragraph (b) to read:

(b) The Secretary has the general responsibility and authority for the management of Federal lands under 43 U.S.C. 2 and section 310 of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1740).

C. Amending paragraph (c) by adding the words "The General Mining Law of May 10, 1872" to the beginning of the first sentence and changing the word "Section" to "section".

D. Removing paragraph (d) in its entirety.

E. Redesignating paragraph (e) as paragraph (d)

§ 3833.0–5 Amended]

4. Section 3833.0–5 is amended as follows:

A. Paragraph (a) is amended by revision the parenthetical expression to read as follows:

(43 U.S.C. 1701 *et seq.*)

B. Paragraph (b) is amended by inserting the words "and held" after the word "located" and removing the phrase "34 CFR" and replacing it with the phrase "43 CFR Part".

C. Paragraph (c) is amended by removing the period at the end of the sentence and adding the phrase "for which patent under 30 U.S.C. 42 and 43 CFR 3860 has not been issued".

D. Amending paragraph (g) by adding at the end thereof the sentence "Notwithstanding the requirements of § 1821.2–1(d) of this title, filings made under this subpart in Alaska may be filed in either office in that State".

E. Revising paragraph (i) to read as follows:

(i) "Copy of the official record" means a legible reproduction or duplicate, except microfilm, of the instrument which was or will be filed under state law in the local jurisdiction where the claim or site is located. It also includes and exact reproduction, duplicate, except microfilm, of an amended instrument which may change or alter the description of the claim or site.

F. Adding new paragraphs (j), (k), (l), (m), (n) and (o) as follows:

* * * * *

(j) "Affidavit of assessment work" means the instrument required to be filed under state law for the purpose of evidencing that labor or improvements, valued at not less than $100, have been made upon or for the benefit of the mining claim as required by 30 U.S.C. 28 or, if state law does not require the filing of such an instrument, an affidavit evidencing the performance of such assessment work.

(k) "Notice of intention to hold a mining claim" means an instrument containing the information required in § 3833.2–3 of this title which has been or will be filed under state law in the local jurisdiction indicating that the owner continues to have an interest in the claim.

Published in 47 F.R. 56300, December 15, 1982 - Effective December 30, 1982.
Circular Distribution List

(l) "Notice of intention to hold a mill or tunnel site" means an instrument containing the information in the form required in § 3833.2–3 of this title indicating that the owner continues to hold an interest in the site.

(m) "Filed or file" means being received and date stamped by the proper BLM office. For the purpose of complying with § 3833.2–1 of this title, "timely filed" means being file within the time period prescribed by law, or received by January 19th after the period prescribed by law in an envelope bearing a clearly dated postmark affixed by the United States Postal Service within the period prescribed by law. This 20 day period does not apply to a notice of location filed pursuant to § 3833.2–1(a) of this title. (See § 1821.2–2(e) of this title where the last day falls on a date the office is closed.)

(n) "Assessment year" is defined in 30 U.S.C. 28 and commences at 12 o'clock noon on September 1st of each year. For the purpose of complying with the requirements of section 314(a) of the Act, the calendar year in which the assessment year ends is the year for which the evidence of annual assessment work shall be filed.

(o) "Filing year" for the purposes of complying with the Act begins on December 31st of each year and continues through December 30th of the following year.

5. Section 3833.1–1 is revised to read as follows:

§ 3833.1–1 Recordation of mining claims and mill sites located on or before October 21, 1976.

Mining claims and sites which were located prior to October 21, 1976, the effective date of the Act, but which had not been recorded in the proper BLM office on or before October 22, 1979, as required by the Act, are by law conclusively deemed abandoned and void. There is no statutory provision for accepting a notice or certificate of location for such an abandoned and void claim or site.

§ 3833.1–2 [Amended]

6. Section 3833.1–2 is amended by:

A. Revising the title to read:

§ 3833.1–2 Recordation of mining claims, mill sites and tunnel sites located after October 21, 1976.

B. Revising paragraph (a) to read:

"(a) The owner of an unpatented mining claim, mill site or tunnel site located after October 21, 1976, on Federal lands, excluding lands within units of the National Park System shall file within 90 days after the date of location of that claim or site in the proper BLM office, a copy of the official record of the notice or certificate of location of that claim or site that was or will be filed under state law. If state law does not require the recordation of a notice or certificate of location of a claim or site, a notice or certificate of location containing the information in paragraph (b) of this section shall be filed.

C. Removing paragraph (b) in its entirety;

D. Redesignating paragraph (c) as paragraph (b) and revising paragraph (b)(5) to read:

(b)(5) For all claims or sites a description shall be furnished.

(i) This description shall recite, to the extent possible, the section(s), the approximate location of all or any part of the claim to within a 160 acre quadrant of the section (quarter section), or sections, if more than one is involved, and the township, range, meridian and State obtained from an official survey plat or other U.S. Government map showing either the surveyed or protracted U.S. Government grid, whichever is applicable.

(ii) The location of the claims or sites shall be depicted on either a topographic map published by the U.S. Geological Survey or by a narrative or a sketch describing the claim or site with reference by appropriate tie to some topographic, hydrographic, or man-made feature. Such map, narrative description, or sketch shall set forth the boundaries and position of the individual claim or site with such accuracy as will permit the authorized officer of the agency administering the lands or mineral interests in such lands to identify and locate the claims or sites on the ground.

(iii) More than one claim or site may be shown on a single map or described in a single narrative or sketch if they are located in the same general area, so long as the individual claims or sites are clearly identified;

E. Removing paragraph (b)(6) and redesignating paragraphs (b)(7) and (b)(8) as paragraphs (b)(6) and (b)(7) respectively, and revising (b)(6) to read:

(b)(6) In place of the requirements of (b)(5) of this section, an aproved mineral survey may be supplied. A mining claim described by legal subdivisions, section, town, range, meridian and State fulfills the requirements of paragraph (b)(5) of this section.

F. Removing paragraph (d) in its entirety.

7. Section 3833.1–3 is revised to read as follows:

§ 38.33.1–3 Recordation fee.

Each claim or site filed shall be accompained by a one time nonrefundable recordation fee of $5. A Certificate of Location not accompained by the appropriate recordation fee will be noted as being recorded on the date received if, upon notification by the authorized offficer, the claimant submits the fee within 30 days from the receipt of the certified notification to submit the proper fee. Failue to submit the proper fee shall cause the recordation to be rejected and returned to the owner.

§ 3833.2–1 [Amended]

3. Section 3833.2–1 is amended as follows:

A. By adding the words "is" after the word "filing" in the title;

B. By revising paragraph (a) to read as follows:

(a) The owner of an unpatented mining claim located within the boundary unit of the National Park System shall comply with the requirements of 36 CFR 9.5. Evidence of annual assessment work or notice of intent to hold shall be filed yearly with the proper BLM office as provided for in this subpart. The BLM will forward copies of such annual filings to the proper office of the National Park Service.

C. By redesignating paragraphs (b)(1) and (b)(2) as paragraphs (a)(1) and (a)(2) and revising them to read as follows:

(a)(1) Except as provided in subparagraph (2) of this section, the owner of an unpatented mining claim, mill site or tunnel site located within any unit of the National Park System shall file before October 22, 1979, and on or before December 30 of each calendar year after the year of recording (See 30 CFR 9.5), a notice of intention to hold the mining claim, mill site or tunnel site. Such notice shall be in the form prescribed by § 3833.2–3 of this title and shall be filed with the proper BLM office.

(a)(2) Where a claimant has received a permit under 36 CFR 9.5 to do assessment work on a claim in a unit of the National Park System, the claimant may file with the Bureau of Land Management in lieu of the notice required by paragraph (1) of this section, evidence of assessment work in the form prescribed in § 3833.2–2 of this title.

D. Redesignate paragpaph (c) as paragraph "(b)".

E. Newly redesignated paragraph (b) is further amended by inserting immediately after "(b)", the figure "(1)", by removing the words "but including lands within a national monument administered by the United States Fish and Wildlife Service or the United States Forest Service" following the words "National Park System" and inserting in lieu thereof the words "established on or before September 28, 1976, shall have filed or caused to have been filed", and by adding a new paragraph (b)(2) to read as follows:

(b) * * *

(2) Evidence of assessment work performed which is filed under these regulations at any time during the interval of January 1 to September 1 shall be deemed to have been filed on or before December 30, of that calendar year; and

F. Redesignate paragraph (d) as paragraph "(c)";

G. Paragraph (c) is amended by adding immediately after the phrase "National Park System" the phrase "established on or before September 28, 1976," and immediately after the phrase

"United States Forest Service" the phrase "shall have filed or caused to have been filed"; and

H. Adding a new paragraph (d) to read:

(d) Section 314 of the Act (43 CFR 1744) requires that the owner of an unpatented mining claim shall file, prior to December 31st of each year following the calendar year in which the claim was located, either a notice of intent to hold the claim, or evidence of annual assessment work. The General Mining laws (30 U.S.C. 28) allow the required annual assessment work to be initiated in the assessment year following the assessment year in which the claim was located. Therefore, in order to comply with the filing requirements of section 314 of the Act, claimants of mining claims located after 12 o'clock noon on September 1st of that same year, shall file with the proper BLM office, a notice of intent to hold the mining claim in the first calendar year following its location. This does not apply to the claimant who elects to perform his assessment work early and wishes to record the assessment work.

§ 3833.2-2 [Amended]

9. Section 3833.2-2 is amended by:

A. Removing the word "Form—" in the title and replacing it with the words "Contents for";

B. Revising paragraph (a), introductory text, as follows;

(a) An exact legible reproduction or duplicate, except microfilm of the evidence of assessment work which was performed under state law and was or will be filed for record pursuant to section 314(a) of the Act in the local jurisdiction of the state where the claim or group of claims is located and recorded setting forth the additional information:

C. Amending the first sentence of paragraph (a)(1) by inserting the phrase "Bureau of Land Management" after "The"; removing the words "by the authorized officer" after the word "claim"; removing the word "or" after "notice" and replacing it with ","; removing "or patent application" after the word "location";

D. Amending paragraph (b), introductory text, by removing the word "and" where it appears immediately after the phrase "30 U.S.C. 28-1" and replacing it with the phrase "which has been or will be"; and

E. Amending paragraph (b)(1) by removing the phrase "The serial number" and replacing it with the phrase "The Bureau of Land Management serial number" and by removing the phrase "by the authorized officer".

10. Section 3833.2-3 is revised as follows:

§ 3833.2-3 Contents for a notice of intention to hold claim or site.

(a) A notice of intention to hold a mining claim or group of mining claims may be filed at the election of the owner, regardless of whether the assessment has been suspended, deferred or not yet accrued. However, the claimant shall file with the Bureau of Land Management the same documents which have been or will be recorded with the county or local office of recordation. A notice of intention to hold a mining claim shall be effective only to satisfy the filing requirement for the year (as specified in § 3833.0-5 of this title), in which the notice is filed. The filing of a notice with the Bureau of Land Management shall not relieve the owner of complying with Federal and state laws pertaining to the performance of annual assessment work.

(b) A notice of intention to hold a mining claim or group of mining claims shall be in the form of either:

(1) An exact legible reproduction or duplicate, except microfilm, of an instrument, signed by the owner of the claim of his/her agent, which was or will be filed for record pursuant to section 314(a)(1) of the Act in the local jurisdiction of the State where the claim is located and recorded setting forth the following information:

(i) The Bureau of Land Management serial number assigned to each claim upon filing in the proper BLM office of a copy of the notice or certificate of location. Citing the serial number shall comply with the requirement in the Act to file an additional description of the claim;

(ii) Any change in the mailing address, if known, of the owner or owners of the claim;

(2) A reference to the decision on file in the proper BLM office by date and serial number which granted a deferment of the annual assessment work.

(3) A reference to a pending petition for deferment of the annual assessment work required by 30 U.S.C. 28 by date of filing and serial number and with the proper BLM office.

(c) A notice of intention to hold a mill or tunnel site or group of mill or tunnel sites shall be in the form of a letter or other notice signed by the owner(s) of such sites or their agent(s) setting forth the following information:

(1) The Bureau of Land Management serial number assigned to each site upon filing in the proper BLM office of a copy of the official record of the notice or certification of location;

(2) Any change in the mailing address, if known, of the owner(s) of the site(s);

(3) In the case of a tunnel site, a statement that the owner(s) will continue to prosecute work on the tunnel with reasonable diligence for the discovery or development of a vein or lode.

§ 3833.2-4 When evidence or notice is not required.

12. The title to § 3833.2-4 is revised as set forth above.

13. Section 3833.4 is amended by redesignating paragraph (b) as paragraph (c) and revising it to read as set forth below and by adding new paragraphs (b) and (d) as follows:

§3833.4 Failure to file.

* * * * *

(b) The failure to file the information required in §§ 3833.1-2(b), 3833.2-1(c), 3833.2-2 (a) and (b) or 3833.2-3 (b) and (c) shall not be deemed conclusively to constitute an abandonment of the claim or site, but such information shall be filed within 30 days of receipt of a decision from the authorized officer calling for such information. Failure to file such information within the time allowed by decision shall cause the filing to be rejected by a decision appealable under the procedures of Part 4 of this title. Final affirmance of such rejection for failure to file such information shall be deemed conclusive evidence of abandonment of the mining claim, mill or tunnel site and such mining claim, mill or tunnel site shall be void.

(c) The fact that an instrument is filed in accordance with other laws permitting filing for record thereof and is defective or not timely filed for record under those laws shall not be considered failure to file under this subpart. The fact that an instrument is filed for record under this subpart by or on behalf of some, but not all of the owners of the mining claim, mill or tunnel site shall not affect the validity of this filing.

(d) Any mining claim deemed abandoned under section 314(c) of the Act for failure to file an instrument in the local jurisdiction of the State where the claim is located pursuant to section 314 (a)(1) and (b) of the Act, shall not be validated by filing the instrument with the BLM in accordance with § 3833.2-1 of this title, and such instrument is ineffective even though the claim may currently be shown to exist in the BLM records.

§ 3833.5 [Amended]

14. Section 3833.5 is amended as follows:

A. Amend paragraph (b) by removing the words "of section 2324 of the Revised Statutes as amended" in the first sentence and placing a period after the word "requirements";

B. Paragraph (d) is revised to read as follows:

(d) In the case of any action or contest initiated by the United States affecting an unpatented mining claim, mill or tunnel site, only those owners who have recorded their claim or site pursuant to § 3833.1–2 of this title and filed a notice of transfer of interest pursuant to § 3833.3 of this title or owners whose names show on annual filings shall be considered by the United States as parties whose rights are affected by such action or contest and shall be personally notified and served by certified mail sent to their last address of record. All methods reasonably calculated to ensure that those parties receive actual notice of the action or contest shall be employed. If those methods are not successful, the interested parties shall be notified by publication in accordance with 43 CFR 4.450. Owners who have not recorded a claim or site or filed a notice of transfer shall not be personally served and will be bound by any contest proceeding even though they have not been personally served. This subpart shall not apply to procedures for public notice listed at Subpart 3860 of this title with respect to mineral patents.

Garrey E. Carruthers,
Assistant Secretary of the Interior.
November 30, 1980.

[FR Doc. 82-34097 Filed 12-14-82; 8:45 am]

☆U.S. Government Printing Office: 1983—677-426/121

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[Circular 2516A]

FINAL REGULATIONS

43 CFR 3833

L1B

§ 3833.0-1 Purpose

The purpose of these regulations is to establish procedures for:

(a) The recordation in the proper BLM office of unpatented mining claims, mill sites, or tunnel sites on the Federal lands;

(b) The filing in the same office of evidence of performance of annual assessment work or of a notice of intention to hold an unpatented mining claim;

(c) Notifying the proper BLM office of the transfer of an interest in unpatented mining claims, mill sites or tunnel sites.

(d) These regulations are not intended to supersede or replace existing recording requirements under state law, except when specifically changed by the provisions of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1701), and are not intended to make the Bureau office the official recording office for all ancillary documents (wills, liens, judgements, etc.) involving an unpatented mining claim, mill site or tunnel site.

§ 3833.0-2 Objectives

The objectives of these regulations are:

(a) To determine the number and location of unpatented mining claims, mill sites, or tunnel sites located on Federal lands in order to assist in the surface management of those lands and the mineral resources therein;

(b) To remove any cloud on the title to those lands that may exist because they are subject to mining claims that may have been abandoned;

(c) To provide the BLM with information as to the location of active mining claims;

(d) To keep the BLM informed of transfers of interest in unpatented mining claims, mill sites, or tunnel sites.

§ 3833.0-3 Authority

(a) Section 314 (a) and (b) of the Act (43 U.S.C. 1744) require the recordation of unpatented mining claims, mill sites, and tunnel sites, and the filing of information concerning annual assessment work performed or a notice of intention to hold mining claims in the proper BLM office within specified time periods. Section 314 (c) of the Act sets forth the consequences of the failure to file such information or documents within the time limits prescribed.

Published in 47 F.R. 56300, December 15, 1982 - Effective December 30, 1982.

(b) The Secretary has the general responsibility and authority for the management of Federal lands under 43 U.S.C. 2 and section 310 of the Act (43 U.S.C. 1740).

(c) The General Mining Law of May 10, 1872, Section 2319 of the Revised Statutes (30 U.S.C. 22) provides that the exploration, location, and purchase of valuable mineral deposits shall be "under regulations prescribed by law," and section 2478 of the Revised Statutes, as amended, (43 U.S.C. 1201), provides that those regulations will be issued by the Secretary.

(d) The Act of August 31, 1951 (31 U.S.C. 483a) and section 304(a) of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1743).

§ 3833.0-5 Definitions.

As used in this Subpart:

(a) "The Act" means the Federal Land Policy and Management Act of 1976 (Public Law 94-579; 90 Stat. 2743; 43 USC 1701 et seq.)

(b) "Unpatented mining claim" means a lode mining claim or a placer mining claim located and held under the General Mining Law of May 10, 1872, as amended (30 U.S.C. 21-54), for which a patent under 30 U.S.C. 29 and 43 CFR 3860 has not been issued.

(c) "Mill site" means any land located pursuant to 30 U.S.C. 42 for which patent under 30 U.S.C. 42 and 43 CFR 3860 has not been issued.

(d) "Tunnel site" means a tunnel located pursuant to 30 U.S.C. 27.

(e) "Owner" means the person who is the holder of the right to sell or transfer all or any part of the unpatented mining claim, mill site, or tunnel site. The owner shall be identified in the instruments required by these regulations by a notation on those instruments.

(f) "Federal lands" means any lands or interest in lands owned by the United States, except lands within units of the National Park System, which are subject to location under the General Mining Law of May 10, 1872, supra, including, but not limited to, those lands within forest reservations in the National Forest System and wildlife refuges in the National Wildlife Refuge System.

(g) "Proper BLM office" means the Bureau of Land Management office listed in § 1821.2-1(d) of this title as having jurisdiction over the area in which the claims or sites are located. Notwithstanding the requirements of § 1821.2-1(d) of this title, filings made under this subpart in Alaska may be filed in either office in that State.

(h) "Date of location" or "located" means the date determined by State law in the local jurisdiction in which the unpatented mining claim, mill site, or tunnel site is situated.

(i) "Copy of the official record" means a legible reproduction or duplicate, except microfilm, of the instrument which was or will be filed under state law in the local jurisdiction where the claim or site is located. It also includes an exact reproduction or duplicate, except microfilm, of an amended instrument which may change or alter the description of the claim or site.

(j) "Affidavit of assessment work" means the instrument required to be filed under state law for the purpose of evidencing that the labor and improvements valued at not less than $100, have been made upon or for the benefit of the mining claim as required by 30 U.S.C. 28 or, if state law does not require the filing of such an instrument, an affidavit evidencing the performance of such assessment work.

(k) "Notice of intention to hold a mining claim" means an instrument containing the information required in § 3833.2-3 of this title which has been or will be filed under state law in the local jurisdiction indicating that the owner continues to have an interest in the claim.

(l) "Notice of intention to hold a mill site or tunnel site" means an instrument containing the information required in § 3833.2-3 of this title indicating that the owner continues to hold an interest in the site.

(m) "Filed or file" means being received and date stamped by the proper BLM office. For the purpose of complying with subpart 3833.2-1 of this title, "timely filed" means being filed within the time period prescribed by law, or received by January 19th after the period prescribed by law in an envelope bearing a clearly dated postmark affixed by the United States Postal Service within the period prescribed by law. The 20 day period does not apply to notices or certificates of location filed pursuant to subpart 3833.1-2 of this title (See § 1821.2-2(e) of this title where the last day falls on a date when the office is closed.)

(n) "Assessment Year" is defined by 30 U.S.C. 28 and commences at 12 O'clock noon on September 1st of each year. For the purpose of complying with the requirements of Section 314 (a) of the Act, the calendar year in which the assessment year ends, is the year for which the evidence of annual assessment work shall be filed.

(o) "Filing year" for the purpose of complying with the Act, begins on January 1st of each year and continues through December 30th.

§ 3833.1 - Recordation of mining claims

§ 3833.1-1: Recordation of mining claims mill sites, amd tunnel located on or before October 21, 1976.

Mining claims, mill sites, and tunnel sites which were located prior to October 21, 1976, the effective date of the Act, but which were not recorded in the proper BLM office on or before October 22, 1979, as required by the Act, are by law conclusively deemed abandoned and void. There is no statutory provision for accepting a notice or certificate of location for such an abandoned and void claim or site.

§ 3833.1-2 Manner of recordation of mining claims located after October 21, 1976.

(a) The owner of an unpatented mining claim, mill site, or tunnel site located after October 21, 1976, on Federal lands, excluding lands within units of the National Park System shall file within 90 days after the date of location of that claim or site in the proper BLM Office, a copy of the official record of the notice or certificate of location of the claim or site that was or will be filed under state law. If state law does not require the recordation of a notice or certificate of location of the claim or site, a notice or certificate of location containing the information in paragraph (b) of this section shall be filed.

(b) The copy of the certificate(s) filed in accordance with paragraph (a) of this section shall be supplemented by the following additional information unless it is included in the copy:

(1) The name or number of the claim or site, or both, if the claim or site has both;
(2) The name and current mailing address, if known, of the owner or owners of the claim or site;
(3) The type of claim or site;
(4) The date of location;
(5) For all claims or sites, a description shall be furnished.
(i) This description shall recite, to the extent possible, the section(s), the the approximate location of all or any part of the claim to within a 160 acre quadrant of the section (quarter section) or sections, if more than one is involved, and the township, range, meridian, and State obtained from an official survey plat or other U.S. Government map showing either the surveyed or protracted U.S. Government grid, whichever is applicable.
(ii) The location of the claims or sites shall be depicted on either a topographic map published by the U.S. Geological Survey or by a narrative or a sketch describing the claim or site with reference by appropriate tie to some topographic, hydrographic, or man-made feature. Such map, narrative description, or sketch shall set forth the boundaries and positions

of the individual claim or site with such accuracy as will permit the authorized officer of the agency administering the lands or the mineral interests in such lands to identify and locate the claims or sites on the ground.
(iii) More than one claim or site may be shown on a single map or described in a single narrative or sketch if they are located in the same general area, so long as the individual claims or sites are clearly identified;
(6) In place of the requirements of (5) above, an approved mineral survey may be supplied. A mining claim described by legal subdivisions, section, township, range, meridian and State fulfills the requirements of subparagraph (5) of this paragraph;
(7) Nothing in the requirements for a map or description shall require the owner of a claim or site to employ a professional surveyor or engineer.

§ 3833.1-3 Recordation fee

Each claim or site filed shall be accompanied by a one time non-refundable recordation fee of $5. A Certificate of Location not accompanied by the appropriate recordation fee will be noted as being recorded on the date received if, upon notification by the authorized officer, the claimant submits the fee within 30 days from the receipt of the decision to submit the proper fee. Failure to submit the proper fee shall cause the recordation to be rejected and returned to the owner.

§ 3833.2-1 When a filing is required

Mining Claims Within the National Park System

(a) The owner of an unpatented mining claim located within the boundary unit of the National Park System must comply with the requirements of 36 CFR 9.5. Evidence of annual assessment work or notice of intent to hold shall be filed yearly with the proper BLM office as provided for in this subpart. The BLM will forward copies of such annual filings to the proper office of the National Park Service.

(1) Except as provided in subparagraph (2) of this section, the owner of an unpatented mining claim, mill site, or tunnel site located within any unit of the National Park System shall file on or before October 22, 1979, and on or before December 30 of each calendar year after the year of recording (See 36 CFR § 9.5), a notice of intention to hold the mining claim, mill site, or tunnel site. Such notice shall be in the form prescribed by § 3833.2-3 of this title and shall be filed with the proper BLM office.

of the individual claim or site with such accuracy as will permit the authorized officer of the agency administering the lands or the mineral interests in such lands to identify and locate the claims or sites on the ground.

(iii) More than one claim or site may be shown on a single map or described in a single narrative or sketch if they are located in the same general area, so long as the individual claims or sites are clearly identified;

(6) In place of the requirements of (5) above, an approved mineral survey may be supplied. A mining claim described by legal subdivisions, section, township, range, meridian and State fulfills the requirements of subparagraph (5) of this paragraph;

(7) Nothing in the requirements for a map or description shall require the owner of a claim or site to employ a professional surveyor or engineer.

§ 3833.1-3 Recordation fee

Each claim or site filed shall be accompanied by a one time non-refundable recordation fee of $5. A Certificate of Location not accompanied by the appropriate recordation fee will be noted as being recorded on the date received if, upon notification by the authorized officer, the claimant submits the fee within 30 days from the receipt of the decision to submit the proper fee. Failure to submit the proper fee shall cause the recordation to be rejected and returned to the owner.

§ 3833.2-1 When a filing is required

Mining Claims Within the National Park System

(a) The owner of an unpatented mining claim located within the boundary unit of the National Park System must comply with the requirements of 36 CFR 9.5. Evidence of annual assessment work or notice of intent to hold shall be filed yearly with the proper BLM office as provided for in this subpart. The BLM will forward copies of such annual filings to the proper office of the National Park Service.

(1) Except as provided in subparagraph (2) of this section, the owner of an unpatented mining claim, mill site, or tunnel site located within any unit of the National Park System shall file on or before October 22, 1979, and on or before December 30 of each calendar year after the year of recording (See 36 CFR § 9.5), a notice of intention to hold the mining claim, mill site, or tunnel site. Such notice shall be in the form prescribed by § 3833.2-3 of this title and shall be filed with the proper BLM office.

(2) Where a claimant has received a permit under 36 CFR § 9.5 to do assessment work on a claim in a unit of the National Park System, the claimant may file with the BLM in lieu of the notice required by paragraph (1) above, evidence of assessment work in the form prescribed in § 3833.2-2 of this title.

Mining Claims Outside of the National Park System

(b)(1) The owner of an unpatented mining claim located on Federal lands, excluding lands within a unit of the National Park System established on or before September 28, 1976, shall have filed or caused to have been filed on or before December 30th of each calendar year following the calendar year in which such claim was located, in the proper BLM office, evidence of annual assessment work performed during the assessment year or a notice of intention to hold the mining claim.

(b)(2) Evidence of assessment work performed which is filed under these regulations at any time during the interval of January 1 to September 1 shall be deemed to have been filed on or before December 30 of that calandar year; and

(c) The owner of a mill site or tunnel site located on Federal lands, excluding lands within a unit of the National Park System established on or before September 28, 1976, but including lands within a national monument administered by the National Park Service or the United States Forest Service shall have filed or caused to have been filed in the proper BLM office on or before December 30th of each year following the year of recording pursuant to § 3833.1-2 of this title, a notice of intention to hold the mill site or tunnel site.

(d) Section 314 (a) of the Act (43 U.S.C. 1744) requires that the owner of an unpatented mining claim shall file, prior to December 31st of each year following the calendar year in which the claim was located, either a notice of intent to hold the claim, or evidence of annual assessment work. The General Mining Law of May 10, 1872, (30 U.S.C. 28) allows the required annual assessment work to be initiated in the assessent year following the assessment year in which the claim was located. Therefore, in order to comply with the filing requirements of section 314 of the Act, claimants of mining claims located after 12 O'clock noon on September 1st of that same year, will have to file with the proper BLM office, a notice of intent to hold the mining claim in the first calendar year following its location. This does not apply to the claimant who elects to perform his assessment work early and wishes to record the assessment work.

§ 3833.2-2 Contents for evidence of assessment work

Evidence of annual assessment work shall be in the form of either:

(a) An exact legible reproduction or duplicate, except microfilm, of the evidence of assessment work which was performed under state law and was or will be filed for record pursuant to section 314(a) of the Act in the local jurisdiction of the state where the claim or group of claims is located and recorded setting forth the following additional information:

(1) The BLM serial number assigned to each claim upon filing of the notice or certificate of location in the proper BLM office. Citing the serial number shall comply with the requirement in the Act to file an additional description of the claim.

(2) Any change in the mailing address, if known, of the owner or owners of the claim or claims; or

(b) An exact legible reproduction or duplicate, except microfilm, of the detailed report concerning geological, geochemical, and geophysical surveys provided for by the Act of September 2, 1958 (30 U.S.C. 28-1) which has been or will be performed under state law and filed for record pursuant to section 314(a)(1) of the Act in the local jurisdiction of the state where the claim or group of claims is located and recorded setting forth the following additional information:

(1) The BLM serial number assigned to each claim upon filing in the proper BLM office of a copy of the official record of the notice or certificate of location or patent application; and

(2) Any change in the mailing address, if known,of the owner or owners of the claim.

§ 3833.2-3 Contents for a notice of intention to hold a claim or site.

(a) A notice of intention to hold a mining claim or group of mining claims may be filed, regardless of whether the annual assessment has been suspended, deferred, or not yet accrued. However, the claimant shall file with the BLM the same documents which has been or will be recorded with the county or local office of recordation. A notice of intention to hold a mining claim shall be effective

only to satisfy the filing requirement for the year (as specified in section 3833.0-5(o) of this title), in which the notice is filed. The filing of a notice with the BLM shall not relieve the owner of complying with Federal and state laws pertaining to the performance of annual assessment work.

(b) A notice of intention to hold a mining claim or group of mining claims shall be in the form of either:

(1) An exact legible reproduction or duplicate, except microfilm, of an instrument signed by the owner of the claims or his/her agent, which was or will be filed for record pursuant to section 314(a)(1) of the Act in the local jurisdiction of the state where the claim is located and recorded setting forth the following information:

(i) The Bureau of Land Management serial number assigned to each claim upon filing in the proper BLM office of a copy of the notice or certificate of location. Citing the serial number shall comply with requirement in the Act to file an additional description of the claim;

(ii) Any change in the mailing address, if known, of the owner or owners of the claim; or

(2) A reference to the decision on file in the proper BLM office by date and serial number which granted a deferment of the annual assessment work, or

(3) A reference to a pending petition for deferment of the annual assessment work by date of filing and serial number with the proper BLM office.

(c) A notice of intention to hold a mill site or tunnel site or a group of mill sites or tunnel sites, shall be in the form of a letter or other notice signed by the owner(s) of such sites or their agent(s) setting forth the following information:

(1) The Bureau of Land Management serial number assigned to each site upon filing in the proper BLM office of a copy of the official record of the notice or certification of location;

(2) Any change in the mailing address, if known, of the owner(s) of the site(s).

§ 3833.2-4 When evidence or notice is not required

Evidence of annual assessment work performed or a notice of intention to hold a mining claim need not be filed on unpatented mining claims or mill sites for which application for mineral patent which complies with 43 CFR Part 3860 has been filed and final certificate has been issued. (See 43 CFR 3851.5). The filing of an application and issuance of the final certificate will be deemed full compliance with the requirements of section 314(a) of the Act and the owner of that claim or site shall be exempt from the filing requirements of § 3833.2-1.

§ 3833.3 Notice of transfer of interest.

(a) Whenever the owner of an unpatented mining claim, mill site, or tunnel site, which has been recorded in accordance with § 3833.1-2, sells, assigns, or otherwise conveys all or any part of his interest in the claim, his transferee shall file in the proper BLM office within 60 days after the completion of the transfer the following information:

(1) The serial number assigned to the claim by the authorized officer upon filing of a copy of the official record of the notice or certificate of location in the proper BLM office; and
(2) The name and mailing address of the person(s) to whom an interest in the claim has been sold, assigned, or otherwise transferred.

(b) Whenever any person acquires an interest through inheritance in an unpatented mining claim, mill site, or tunnel site recorded in accordance with § 3833.1, he shall file in the proper BLM office within 60 days after completion of the transfer the information required by paragraph (a) of this section.

§ 3833.4 Failure to file

(a) The failure to file an instrument required by §§ 3833.1-2 (a) and 3833.2-1 of this title within the time periods prescribed therein, shall be deemed conclusively to constitute an abandonment of a mining claim, and it shall be void.

(b) The failure to file the information or fees required in §§ 3833.1-2(b), 3833.2-1(c), 3833.2-2(a) and (b), or 3833.2-3(b) and (c) shall not be deemed conclusively to constitute an abandonment of a mining claim, mill site, or tunnel site, but such information shall be filed within 30 days of receipt of a decision from the authorized officer calling for such information. Failure to file such information within the time allowed by decision shall cause the filing to be be rejected by a decision appealable under the procedures of Part 4 of this title. Final affirmance of such rejection for failure to file such information shall be deemed conclusive evidence of abandonment of the mining claim, mill site, or tunnel site and such mining claim, mill site, or tunnel site shall be void.

(c) The fact that an instrument is filed in accordance with other laws permitting filing for record thereof and is defective or not timely filed for record under those laws shall not be considered failure to file under this subpart. The fact that an instrument is filed for record under this subpart by or on behalf of some, but not all of the owners of the mining claim, mill site, or tunnel site shall not affect the validity of this filing.

(d) Any mining claim deemed abandoned under section 314(c) of the Act for failure to file an instrument in the local jurisdiction of the state where the claim is located pursuant to section 314 (a)(1) and (b) of the Act, shall not be validated by filing the instrument with the BLM in accordance with section 3833.2-1 of this title, and such instrument is ineffective even though the claim may be shown to exist in the BLM records.

§ 3833.5 Effect of recording and filing.

(a) Recordation or application involving an unpatented mining claim, mill site, or tunnel site by itself shall not render valid any claim which would not be otherwise valid under applicable law and does not give the owner any rights he is not otherwise entitled to by law.

(b) Nothing in this subpart shall be construed as a waiver of the annual assessment work requirements. Compliance with the requirements of this subpart shall be in addition to, and not a substitute for, compliance with the requirements of section 2324 of the Revised Statutes and with laws and regulations issued by any state or other authority relating to performance of annual assessment work.

(c) Filing of instruments pertaining to mining claims under other Federal law with the Bureau or other Federal agency shall not excuse the filings under this subpart and filings under this subpart shall not excuse the filing of instruments pertaining to mining claims under any other Federal law, except that filing a notice or certificate of location or evidence of annual assessment work under this subpart which is marked by the owner as also being filed under the Act of April 8, 1948 (62 Stat. 162) or the Act of August 11, 1955 (30 U.S.C. 621-625), will satisfy the recording requirement for O & C lands under 43 CFR 3821 and Public Law 359 lands under 43 CFR 3730, or as provided in § 3833.2-1(b) of this title.

(d) In the case of any action or contest initiated by the United States affecting an unpatented mining claim, mill site, or tunnel site, only those owners who have recorded their claim or site pursuant to § 3833.1-2 of this title and filed a notice of transfer of interest pursuant to § 3833.3, or owners whose names show on annual filings, shall be considered by the United States as parties whose rights are affected by such action or contest and shall be personally notified and served by certified mail sent to the their last address of record. All methods reasonably calculated to ensure that those parties receive actual notice of the action or contest shall be employed. If those methods are not successful, the the interested parties shall be notified by publication in accordance with 43 CFR 4.450. Owners who have

not recorded a claim or site or filed a notice of transfer shall not be personally served and will be bound by any contest proceeding even though they have not been personally served. This subpart shall not apply to procedures for public notice listed at subpart 3860 of this title with respect to mineral patents.

(e) Actual notice of an unpatented mining claim, mill site, or tunnel site by any employee or officer of the United States shall not exempt the claim or site from the requirements of this subpart.

(f) Failure of the government to notify an owner upon his filing or recording of a claim or site under this subpart that such claim or site is located on lands not subject to location or otherwise void for failure to comply with Federal or State law or regulations shall not prevent the government from later challenging the validity of or declaring void such claim or site in accordance with due process of law.

(g) Any person who files an instrument required by these regulations knowing the same to contain any false, fictitious or fraudulent statement or entry, may be subject to criminal penalties under 18 U.S.C. 1001.

Garrey E. Carruthers,
Assistant Secretary of the Interior.
November 30, 1980.

[FR Doc. 82-34097 Filed 12-14-82; 8:45 am]

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

43 CFR Part 3130

[Circular No. 2517]

Amendment to the National Petroleum Reserve—Alaska Oil and Gas Leasing Regulations

Under the authority of the Department of the Interior Appropriations Act, Fiscal Year 1981 (Pub. L. 96–544), Part 3130, Group 3100, Subchapter C, Chapter II of Title 43 of the Code of Federal Regulations is amended as set forth below.

1. The title to subpart 3135 is revised to read:

Subpart 3135—Assignments, Transfers and Extensions

2. Subpart 3135 is amended by adding a new § 3135.1–6 to read:

§ 3135.1–6 Consolidation of leases.

(a) Leases may be consolidated upon written request of the lessee filed with the State Director Alaska, Bureau of Land Management. The request shall identify each lease involved by serial number and shall explain the factors which justify the consolidation.

(b) All parties holding any undivided interest in any lease involved in the consolidation shall agree to enter into the same lease consolidation.

(c) Consolidation of leases not to exceed 60,000 acres may be approved by the State Director, Alaska if it is determined that the consolidation is justified.

(d) The effective date, the anniversary date and the primary term of the consolidated lease shall be those of the oldest original lease involved in the consolidation. The term of a consolidated lease shall be extended beyond the primary lease term only so long as oil or gas is produced in paying quantities or approved constructive or actual drilling or reworking operations are conducted thereon.

(e) Royalty, rental, special lease stipulations and other terms and conditions of each original lease except the effective date, anniversary date and the primary term shall continue to apply to that lease or any portion thereof regardless of the lease becoming a part of a consolidated lease.

Dated: December 11, 1982.

Garrey E. Carruthers,

Assistant Secretary of the Interior.

[FR Doc. 83–207 Filed 1–4–83; 8:45 am]

Published in 48 F.R. 412, January 5, 1983 - Effective February 4, 1983.

by including methyl bis (2-hydroxyethyl)alkyl ammonium chloride.

There were no comments or requests for referral to an advisory committee received in response to the proposed rule.

The pesticide is considered useful for the purpose for which the exemption is sought. It is concluded that the exemption will protect the public health and is established as set forth below.

Any person adversely affected by this regulation may, within 30 days after publication of this notice in the Federal Register, file written objections with the Hearing Clerk, at the address given above. Such objections should specify the provisions of the regulation deemed objectionable and the grounds for the objections. If a hearing is requested, the objections must state the issues for the hearing and the grounds for the objections. A hearing will be granted if the objections are supported by grounds legally sufficient to justify the relief sought.

The Office of Management and Budget has exempted this rule from the requirements of section 3 of Executive Order 12291.

List of Subjects in 40 CFR Part 180

Administrative practice and procedures, Raw agricultural commodities, Pesticides and pests.

(Sec. 408(d)(2), 68 Stat. 512 (21 U.S.C. 346a(d)(2)))

Dated: December 22, 1982.

Edwin L. Johnson,

Director, Office of Pesticide Programs.

PART 180—[AMENDED]

Therefore, 40 CFR 180.1001(d) is amended by adding and alphabetically inserting methyl bis (2-hydroxyethyl) alkyl ammonium chloride to read as follows:

§ 180.1001 Exemptions from the requirement of a tolerance.

* * * * *

(d) * * *

Inert ingredients	Limits	Uses
* * * * *		
Methyl bis (2-hydroxyethyl) alkyl ammonium chloride, where the carbon chain (C_8-C_{18}) is derived from coconut, cottonseed, soya, or tallow acids.	.....	Surfactant.
* * * * *		

[FR Doc. 83-191 Filed 1-4-83; 8:45 am]

BILLING CODE 6560-50-M

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

43 CFR Part 3130

[Circular No. 2517]

Amendment to the National Petroleum Reserve—Alaska Oil and Gas Leasing Regulations

AGENCY: Bureau of Land Management, Interior.

ACTION: Final rulemaking.

SUMMARY: This final rulemaking amends the regulations in 43 CFR Part 3130 to provide procedures for consolidation of leases in the National Petroleum Reserve—Alaska into a single lease, not larger than 60,000 acres in size, in accordance with the Department of the Interior Appropriations Act, Fiscal Year 1981.

EFFECTIVE DATE: February 4, 1983.

ADDRESS: Any inquiries or suggestions should be sent to: Director (530), Bureau of Land Management, 1800 C Street, N.W., Washington, D.C. 20240.

FOR FURTHER INFORMATION CONTACT: Jan Daniels, (202) 343-7753.

SUPPLEMENTARY INFORMATION: The proposed rulemaking amending the existing regulations providing Procedures for Leasing Oil and Gas in the National Petroleum Reserve—Alaska allowing consolidation of leases was published in the Federal Register on April 20, 1982 (47 FR 16807), with a 30-day comment period. During the comment period, 10 comments were received, with 9 from industry sources and one from a Federal source.

In general, the comments favored the amendment allowing consolidation of leases made by the proposed rulemaking. While the amendment was recognized as a "step in the right direction" by the majority of the comments, there was general recognition that the amendment fell short of meeting industry's concerns with operating in the National Petroleum Reserve—Alaska. At the same time, the comments contained an awareness of the inability of the Department of the Interior to fully resolve the problems presented by operating in the Reserve without the granting of additional authority by legislation. In this vein, a majority of the comments recommended that the Department pursue legislation to allow for unitization; to provide for the extension of lease terms for shut-in wells capable of production pending the availability of transportation; and for the suspension of lease terms as directed or approved by the authorized officer.

The Bureau of Land Management recognizes that the provisions of the Appropriations Act, Fiscal Year 1981, do not provide the optimum basis for leasing in the National Petroleum Reserve—Alaska and agrees that the leasing program would be aided by legislative changes covering the three areas discussed in the comments. The Department of the Interior is considering recommending to Congress legislation addressed to these issues. One comment suggested that the 60,000 acre limitation is not applicable to consolidated leases because the Appropriations Act is silent on that issue. While the Appropriations Act is silent on the question of consolidation of leases, it expressly states in proviso 7 that the size of lease tracts may be up to 60,000 acres. Since existing leases are limited to 60,000 acres by the legislation, leases cannot be consolidated into a single operating lease that exceeds 60,000 acres. Language has been added to the final rulemaking clarifying this point.

A number of comments expressed concern about the provision in section 3135.1-6(b) of the proposed rulemaking that "(L)eases to different lessees for different terms, rental and royalty rates or those containing provisions of law which cannot be reconciled shall not ordinarily be considered for consolidation." The comments noted that this provision would have very limited application because the combination of circumstances would apply only to leases with the same lessee or with identical terms, royalty rates, rental and reconcilable provisions of the law in an area not to exceed 60,000 acres. After careful review of the comments and the language of the proposed rulemaking, the final rulemaking has been changed to make it clear that conflicting provisions will be permitted in consolidated leases, except that all parties to an undivided interest in a lease must agree to enter into the same lease consolidation.

One comment raised questions concerning the lease stipulations and suggested that the final rulemaking specify which stipulations would be applicable to the consolidated lease if there are differing stipulations for the leases that are being consolidated. Any special lease stipulations would remain attached to the individual tracts or portions of tracts even after consolidation. Since the consolidation of noncontiguous tracts is allowed, and because stipulations are tract-specific, they will continue to apply to those areas specified in the original lease. The

final rulemaking contains changes that clarify this point.

There was a comment which inquired as to whether leases must be contiguous to qualify for consolidation. There is no requirement in the proposed rulemaking that leases or portions of leases be contiguous to qualify for consolidation. No change has been made on this point in the final rulemaking.

The provisions for lease consolidation in the National Petroleum Reserve in Alaska contained in this Subpart 3135 differ from the provisions for lease consolidation under the Mineral Leasing Act of 1920, as amended (30 U.S.C 181 et seq.) contained in Subpart 3105 of this title. The latter permits consolidation only when the royalty, rental, lease stipulations and other lease terms are the same. Under Subpart 3135 of this title, leases containing different terms can be consolidated. After consolidation they retain their individual identities except for the effective date, anniversary date and the primary term which, for the consolidated lease, will be the same as the dates of the oldest lease involved.

Several questions were raised in the comments regarding the provisions for segregation of leases for inclusion in a consolidated lease. Provisions for segregation and subdivision of existing leases in the National Petroleum Reserve—Alaska are provided under the existing regulations for oil and gas leasing in the National Petroleum Reserve—Alaska.

There were a few comments that requested changes in the final rulemaking to clarify minor items. These changes and necessary editorial changes and corrections have been made in the final rulemaking.

The principal author of this final rulemaking is Jan Daniels, Division of Oil and Gas, Bureau of Land Management, assisted by the staff of the Office of Legislation and Regulatory Management, Bureau of Land Management and the Office of the Solicitor, Department of the Interior.

It is hereby determined that this rulemaking does not constitute a major Federal action significantly affecting the quality of the human environment and that no detailed statement pursuant to section 102(2)(C) of the National Environmental Policy Act of 1969 (42 U.S.C. 4332(2)(C)) is required.

The Department of the Interior has determined that this document is not a major rule under Executive Order 12291 and will not have a significant economic effect on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 et seq.).

The change made by this final rulemaking will only have a minor impact on the leasing program authorized by 43 CFR Part 3130. The opportunity to consolidate leases will apply to all entities who have leased lands in the National Petroleum Reserve—Alaska, without regard to their size.

The information collection requirements contained in this final rulemaking amending 43 CFR Part 3130 have been approved by the Office of Management and Budget as required by 44 U.S.C. 3507 and assigned clearance number 1004–0108.

List of Subjects in 43 CFR Part 3130

Alaska, Mineral royalties, Oil and gas reserves, Public lands—mineral resources, Surety bonds.

Under the authority of the Department of the Interior Appropriations Act, Fiscal Year 1981 (Pub. L. 96–544), Part 3130, Group 3100, Subchapter C, Chapter II of Title 43 of the Code of Federal Regulations is amended as set forth below.

Dated: December 11, 1982.

Garrey E. Carruthers,

Assistant Secretary of the Interior.

1. The title to subpart 3135 is revised to read:

Subpart 3135—Assignments, Transfers and Extensions

2. Subpart 3135 is amended by adding a new § 3135.1–6 to read:

§ 3135.1–6 Consolidation of leases.

(a) Leases may be consolidated upon written request of the lessee filed with the State Director Alaska, Bureau of Land Management. The request shall identify each lease involved by serial number and shall explain the factors which justify the consolidation.

(b) All parties holding any undivided interest in any lease involved in the consolidation shall agree to enter into the same lease consolidation.

(c) Consolidation of leases not to exceed 60,000 acres may be approved by the State Director, Alaska if it is determined that the consolidation is justified.

(d) The effective date, the anniversary date and the primary term of the consolidated lease shall be those of the oldest original lease involved in the consolidation. The term of a consolidated lease shall be extended beyond the primary lease term only so long as oil or gas is produced in paying quantities or approved constructive or actual drilling or reworking operations are conducted thereon.

(e) Royalty, rental, special lease stipulations and other terms and conditions of each original lease except the effective date, anniversary date and the primary term shall continue to apply to that lease or any portion thereof regardless of the lease becoming a part of a consolidated lease.

[FR Doc. 83–207 Filed 1–4–83; 8:45 am]

BILLING CODE 4310–84–M

INTERSTATE COMMERCE COMMISSION

49 CFR Part 1157

[Ex Parte No. 293 (Sub-8)]

Standards for Determining Commuter Rail Service; Continuation Subsidies

AGENCY: Rail Services Planning Office, Interstate Commerce Commission.

ACTION: Adoption of final rules.

SUMMARY: On August 30, 1982 the Rail Services Planning Office (RSPO) issued a notice of proposed rulemaking and requested comments on regulations precribing the necessary contents of a Notice by Amtrak Commuter Services Corporation (CSC) to discontinue commuter rail operations, 47 FR 39700. These regulations were required by the Northeast Rail Service Act of 1981 (NERSA). No comments were received and RSPO is adopting the proposed regulations as final rules.

EFFECTIVE DATE: January 3, 1983.

FOR FURTHER INFORMATION CONTACT: Stephen Grimm, (202) 275–0839.

Elaine Kaiser, (202) 275–0907.

SUPPLEMENTARY INFORMATION: Section 1137 of NERSA creates a new Title V of the Rail Passenger Service Act (45 U.S.C. 501) which provides for the establishment of a new corporation, CSC, to replace Conrail as the operator of commuter rail services. As of January 1, 1983, CSC is required to take over the commuter operations currently provided by Conrail if a commuter authority offers a subsidy payment which complies with RSPO's Standards (45 U.S.C. 504(c)). CSC may, however, discontinue these operations upon 60 days notice if (1) a commuter authority fails to offer an operating payment in accordance with the RSPO Standards or (2) an applicable commuter service operating payment is not paid when it is due.

Section 1137 or NERSA (45 U.S.C. 504(d)(2)) directs RSPO to issue regulations prescribing the necessary content of a discontinuance notice by CSC. Accordingly, on August 30, 1982 we issued a notice of proposed rulemaking. No comments were received

DEPT. OF INTERIOR
BUR. OF LAND MANAGEMENT
1983 AUG 29 AM 10: 27
RECEIVED
MONTANA STATE OFFICE
BILLINGS, MONTANA

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

43 CFR Parts 3000; 3410, 3420, 3430, 3450

[Circular No. 2518]

Interim Final Rulemaking Amending the Coal Management Regulations

Under the authority of the Mineral Leasing Act of 1920, as amended and supplemented (30 U.S.C. 181 *et seq.*), the Mineral Leasing Act for Acquired Lands, as amended (30 U.S.C. 351–359), the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1701 *et seq.*), the Surface Mining Control and Reclamation Act (30 U.S.C. 1201 *et seq.*) and the Multiple Mineral Development Act (30 U.S.C. 521–531), Part 3000 and Group 3400, Subchapter C, Chapter II of Title 43 of the Code of Federal Regulations is amended as set forth below.

PART 3000—[AMENDED]

§ 3000.4 [Amended]

1. Section 3000.4 is amended by removing from the beginning of the section the word "Any" and replacing it with the phrase "Except as provided in § 3427.2 of this title, any".

PART 3410—[AMENDED]

2. Section 3410.3–4 is amended by adding a new paragraph (d) to read:

§ 3410.3–4 Surface protection and reclamation.

* * * * *

(d) Where the surface of the land being explored is privately owned, the authorized officer shall have the authority to terminate or adjust the period of liabilty and/or the amount of liability under the bond. The authorized officer shall provide, 30 days prior to the effective date of termination of the period of liability under the bond, a notice of termination to enable the surface owner to inspect the property and notify the authorized officer, in writing, of any deficiencies in reclamation. Should the licensee and any surface owner be unable to agree on the adequacy of the reclamation, the authorized officer shall make the final determination.

PART 3420—[AMENDED]

§ 3420.2 [Amended]

3. Section 3420.2 is amended by:

A. Amending paragraph (a)(1) by removing the words "pertinent factors" and the semicolon at the end of paragraph (a)(1) and adding the phrase "considerations, including input and advice from the Governors of the affected States regarding assumptions, data, and other factors pertinent to the region;";

B. Amending paragraph (a)(4) by revising the fourth sentence to read "The regional coal team shall consider the State Director's review and shall transmit to the Secretary alternative leasing levels and a preferred leasing level presented in ranges of tons to be offered for lease."; and

C. Amending paragraph (f) by removing from the last sentence the words "shall not be constrained by the established leasing levels but rather".

§ 3420.3–4 [Amended]

4. Section 3420.3–4(b)(1) is amended by removing the period at the end of the second sentence and adding the phrase "and shall identify the preferred alternative in the environmental impact statement."

5. Section 3420.4–3 is amended by adding a new paragraph (c) to read:

§ 3420.4–3 Preliminary tract delineation.

* * * * *

(c) Before determining whether to conduct a lease sale, the Secretary shall seek the recommendation of the Governor of the State(s) in which the lands proposed to be offered for lease are located as to whether or not to lease such lands and what alternative actions are available and what special conditions could be added to the proposed lease(s) to mitigate impacts. The Secretary shall accept the recommendations of the Governor(s) if he determines that they provide for a reasonable balance between the national interest and the State's interests. The Secretary shall communicate to the Governor(s) in writing and publish in the Federal Register the reasons for his determination to accept or reject such Governor's recommendations.

6. A new § 3420.6 is added to read:

§ 3420.6 Reoffer of tracts not sold in previous regional lease sales.

Following the offering of tracts in accordance with the procedures outlined in §§ 3420.2, 3420.3, 3420.4 and 3420.5, any tracts not sold in accordance with the above listed provisions may be reoffered for sale by the Department provided a lease sale schedule has been reviewed by the regional coal team and, after consultation with the Governor, adopted by the Secretary. Provisions of Subpart 3422 shall apply to these tracts.

7. Section 3425.1–4 is amended by adding a new paragraph (c) to read:

Published in 48 F.R. 37654, August 19, 1983 - Effective January 12, 1983

§ 3425.1–4 Emergency leasing.

* * * * *

(c) The authorized officer shall provide the Governor of the affected State(s) a notice of an emergency lease application when it is filed with the Bureau of Land Management.

8. Section 3425.1–8 is amended by adding a new paragraph (c) to read:

§ 3425.1–8 Rejection of applications.

* * * * *

(c) The authorized officer shall transmit reasonable notice of the rejection of an emergency lease application to the Governor of the affected State(s).

9. Section 3427.2 is amended by adding a new paragraph (k) to read:

§ 3427.2 Procedures.

* * * * *

(k) Any surface owner determined to be unqualified by decision of the field official of the surface management agency shall have 30 days from the date of receipt of such decision in which he/she may appeal the decision to the appropriate State Director of the Bureau of Land Management. The surface owner shall have the right to appeal the State Director's decision to the Director, Bureau of Land Management, within 30 days of receipt of that decision. Both appeals under this paragraph shall be in writing. As an exception to the provisions of § 3000.4 of this title, the decision of the Director shall be the final administrative action of the Department of the Interior.

PART 3430—[AMENDED]

§ 3430.5–4 [Amended]

10. Section 3430.5–4(b) is amended by adding after the words "authorized officer" the phrase "or at the request of the regional coal team or the Governor of the affected State(s),".

11. Section 3435.3–1(b) is revised to read:

§ 3435.3–1 Exchange notice.

* * * * *

(b) The exchange notice shall also be provided to the Governor of the affected State(s) concurrent with notice to the lessee or preference right lease applicant stating why the Secretary believes an exchange may be in the public interest.

* * * * *

12. Section 3435.3–3(a) is amended by adding at the end of the section the following sentence:

§ 3435.3–3 Agreement to terms.

* * * The authorized officer shall consult with the regional coal team prior to initiation of such negotiations and shall consult again prior to finalization of the negotiated exchange.

PART 3450—[AMENDED]

13. Section 3451.1 is amended by adding a new paragraph (e) to read:

§ 3451.1 Readjustment of lease terms.

* * * * *

(e) The Governor of the affected State(s) shall be notified prior to the readjustment of lease terms.

14. Section 3452.2–2 is amended by adding at the end of the section the following sentence:

§ 3452.2–2 Cancellation procedure.

* * * The Governor of the affected State(s) shall be given reasonable notice of action taken by the Department of the Interior to initiate cancellation of the lease.

15. Section 3453.3–3 is amended by adding at the end of the section the following sentence:

§ 3453.3–3 Effective date.

* * * The Governor of the affected State(s) shall be given reasonable notice of any lease transfer.

Dated: December 21, 1982.

James G. Watt,

Secretary of the Interior.

[FR Doc. 83–835 Filed 1–11–83; 8:45 am]

are, or insurance for these services is, [illegible] provided through arrangements [illegible] by entities other than the HMO; [illegible].102(a)(3) (medically necessary emergency health services); and § 100.102(a)(6) (diagnostic laboratory and diagnostic and therapeutic radiologic services);

* * * * *

[FR Doc. 83-815 Filed 1-11-83; 8:45 am]
BILLING CODE 4160-17-M

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

43 CFR Parts 3000, 3410, 3420, 3430, 3450

[Circular No. 2518]

Interim Final Rulemaking Amending the Coal Management Regulations

AGENCY: Bureau of Land Management, Interior.

ACTION: Interim final rulemaking.

SUMMARY: This interim final rulemaking amends provisions of the existing regulations in 43 CFR Group 3400, Federally Owned Coal, which were published as final regulations in the [illegible]l Register July 30, 1982 (47 FR [illegible] The Department of the Interior [illegible]etermined that the provisions of the regulations concerning consultation with state governments were not sufficiently articulated in the July 30, 1982 regulations and that these provisions should be clarified, which is the purpose of this interim final rulemaking. These revisions are administrative and procedural in nature but are essential for the effective management of the Bureau of Land Management's coal leasing program. For these reasons, the Department of the Interior has determined that the most effective way to implement the regulations at the earliest possible time, while minimizing interference with the Department of the Interior's coal leasing schedule, and at the same time to assure a full public review, is to publish them as interim final rules while soliciting public comments.

DATES: Effective January 12, 1983. Comments will be accepted until February 28, 1983.

ADDRESS: Comments should be sent to: Director (140), Bureau of Land Management, 18th and C Streets, N.W., Washington, D.C. 20240. Comments will [illegible]ilable for public review in Room [illegible]the above address during regular [illegible]s hours (7:45 a.m. to 4:15 p.m.) Monday through Friday.

FOR FURTHER INFORMATION CONTACT: Ryan Dudley, (202) 343-4537.

SUPPLEMENTARY INFORMATION: This interim final rulemaking modifies and clarifies provisions of the Department of the Interior's coal management regulations which were published July 30, 1982 (47 FR 33114). The provisions primarily relate to consultation processes between the Department of the Interior and State governments and Governor's offices in States affected by coal leasing decisions made by the Bureau of Land Management. The provisions also relate to consultation and coordination between the Department of the Interior and regional coal teams, and procedures for appeal of surface ownership determinations made by the Bureau of Land Management.

Many of the changes made by this interim final rulemaking were the subject of comments from the public concerning the proposed rulemaking for coal management published in the Federal Register on December 16, 1981 (46 FR 61390), and subsequently published as final regulations on July 30, 1982 (47 FR 83114).

Comments made on the December 16, 1981 proposed rulemaking were again considered in the development of this interim final rulemaking. The experience gained implementing the final rulemaking was also reviewed and considered as part of the development of this interim final rulemaking. Based upon both of these reviews, the Department of the Interior has determined that additional changes will make the rulemaking more responsive to expressed public need. The Department has further determined that the policy of close cooperation and consultation with affected State governments will be enhanced by more explicitly describing processes and procedures for consulting with Governors of states affected by Federal coal leasing. This interim final rulemaking incorporates those changes.

Specific Changes

Subpart 3410—Exploration Licenses. The changes made to § 3410.3-4 clarify the rights of private surface owners whose lands are supporting activities under exploration licenses. The existing regulations do not specifically require that the authorized officer seek written comments of private surface owners concerning the adequacy of the reclamation accomplished under exploration licenses, prior to terminating or adjusting the period or amount of liability under a bond. This interim final rulemaking requires the authorized officer to request such written comments. These changes respond to comments submitted on the December 16, 1981, proposed rulemaking that objected to the deletion of the provision from the existing regulations that were published in July 1979.

The comments expressed the view that the change made by the proposed rulemaking would deprive surface owners of split estate lands of adequate protection because they could not present their views on the adequacy of the reclamation effort on the lands after completion of the exploration activity. While nothing in the existing regulations precludes requesting written comments from affected private surface owners, this interim final rulemaking requires the authorized officer to request written comments from private surface owners.

Subpart 3420—Competitive Leasing. This interim final rulemaking makes changes to the existing regulations in §§ 3420.2 and 3420.3. The language in § 3420.2(a)(1) has been modified to state clearly that input and advice from State Governors are among the pertinent factors to be considered by Bureau of Land Management State Directors who are members of regional coal teams, as they prepare the initial range of regional leasing levels. The regional coal teams will continue to recommend alternative leasing levels given in ranges of tons. In addition, § 3420.2(a)(4) is modified to state that regional coal teams shall recommend a preferred leasing level to the Secretary.

Language in 43 CFR 3420.2(f) is modified by this rulemaking to reflect suggestions made by commenters on the December 16, 1981 proposed rulemaking.

This modification removes the requirement that the sale schedule for tracts shall not be constrained by the established leasing level and clarifies that the Secretary of the Interior will be guided by the established leasing level as well as the quantity and quality of other information available to him when making a final decision concerning which coal lease tracts to offer for sale within a region.

Section 3420.3-4(b)(1). This section is expanded by the interim final rulemaking to require that every regional environmental impact statement identify a preferred alternative. Council on Environmental Quality regulations at 40 CFR Group 1500 require that all environmental impact statements identify and study a preferred alternative. The amendment to this section now clearly reflects this requirement.

Section 3420.4-3. To further the Department of the Interior's policy of consultation and coordination with affected State governments, this section is revised to state more clearly that the

Secretary of the Interior will solicit detailed recommendations from Governors of affected States concerning which tracts to lease. Language has also been added to this section to provide for sending written notice to Governors of affected States concerning acceptance or rejection of their recommendation regarding lease sales in their States. Provision has also been made for publication of this decision in the **Federal Register** in addition to the written notification.

Section 3420.6. This section has been added by the interim final regulations. Existing regulations do not discuss procedures for reoffering tracts not sold in previous regional lease sales, prior to a new round of regional activity planning. This authority always existed, but was never expressed, and questions have arisen about the procedures to be employed. This new section describes the entities involved and the actions to be taken in reoffering unsold coal lease tracts.

Subpart 3425—Leasing on application. A new paragraph is added by this rulemaking at 43 CFR 3425.1–4 to provide for notifying Governors of the receipt by the Bureau of Land Management of emergency lease applications. Several comments on the December 16, 1981, proposed regulations requested that this provision be included. The Department of Interior has determined that this section should be included as part of its policy of maintaining close cooperative relations with affected State governments.

Section 3425.1–8. This section has been revised by adding a new paragraph which provides for notification of Governors of affected States when emergency lease applications are rejected.

Subpart 3427—Split estate leasing.—Section 3427.2. This section is revised by the addition of a new subsection (k) which modifies the existing appeals process for surface owners whom the surface managing agency has determined to be unqualified, that is, whose written consent is not required before the Secretary of the Interior may issue a Federal coal lease for surface mining of the reserved coal underlying the lands they own. To avoid the existing lengthy Department of the Interior appeal process and to render a Departmental decision on qualifications as quickly as possible, this rulemaking provides for an initial decision from the authorized officer, an appeal to the State Director, and a final appeal to the Director, Bureau of Land Management, whose decision will be considered the final administrative action.

Part 3430—Noncompetitive leasing.—Subpart 3430. Several comments on the December 16, 1981, proposed rulemaking requested that the Secretary of the Interior be authorized to initiate exchange procedures at the request of the regional coal team or the Governor of the affected State in cases where the exchanges are authorized by statute. The interim final rulemaking adds language to that effect at 43 CFR 3430.5–4(b).

Language has also been added at §§ 3435.3–1(b) and 3435.3–3(a) providing that Governors of affected States be sent copies of exchange notices and that regional coal teams be consulted before initiating and again before completing negotiations on exchanges.

Part 3450—Management of Existing Leases. Changes are made in §§ 3451.1, 3452.2–2, and 3453.3–3, to add provisions for notifying Governors of affected States of coal lease readjustments, lease cancellations, and lease transfers. Several comments on the December 16, 1981, proposed rulemaking requested these regulatory additions. They were not adopted by the July 30, 1982, final rulemaking because they appeared to be redundant to existing channels of communication. Upon reconsideration, the Department of the Interior has determined that the public interest is best served by having a clear, established, visible procedure for notifying Governors of changes in leases, cancellation of leases, and lease transfers. This has been accomplished by adding a new paragraph (e) to § 3451.1 and additional sentences to § 3452.2–2 and to § 3453.3–3.

The principal authors of this interim final rulemaking are Ryan Dudley and Carole Smith, Division of Coal, Tar Sands and Oil Shale, Bureau of Land Management assisted by staff of the Office of Legislation and Regulatory Management, Bureau of Land Management and other Department of the Interior staff.

It is hereby determined that these rules do not constitute a major Federal action significantly affecting the quality of the human environment and that no detailed statement pursuant to section 102(2)(C) of the National Environmental Policy Act of 1969 (42 U.S.C. 4332(2)(C)) is required. The changes made here are also within the scope of the proposals and impacts discussed in the Bureau of Land Management's 1979 Final Environmental Impact Statement (FES 79–19) on adoption of federal coal leasing rules (promulgated July 19, 1979) and the environmental assessment prepared on the July 30, 1982, amendments to the July 1979 program rules.

The Department of the Interior has determined that this document is not a major rule under Executive Order 12291 and will not have a significant effect on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). Because the changes that are made by this interim final rulemaking are administrative and procedural in nature, small entities will not be significantly affected. No significant economic impacts are expected from this rulemaking. In all cases, the notice or consultation requirements will be integrated into existing processes, and should result in no delays in processing Federal coal leases and making lease-related decisions.

The information collection requirements contained in 43 CFR Group 3400, Parts 3410, 3420, 3430, and 3450, have been approved by the Office of Management and Budget under 44 U.S.C. 3507 and assigned clearance number 1004–0073.

List of Subjects

43 CFR Part 3000

Public lands—Classification, Public lands—mineral resources.

43 CFR Part 3410

Coal, Environmental protection, Mines, Public lands—mineral resources, Surety bonds.

43 CFR Parts 3420 and 3430

Administrative practice and procedure, Coal, Environmental protection, Intergovernmental relations, Mines, Public lands—mineral resources, Public lands—rights-of-way.

43 CFR Part 3450

Coal, Mines, Public lands and mineral resource, Surety bonds.

Under the authority of the Mineral Leasing Act of 1920, as amended and supplemented (30 U.S.C. 181 *et seq.*), the Mineral Leasing Act for Acquired Lands, as amended (30 U.S.C. 351–359), the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1701 *et seq.*), the Surface Mining Control and Reclamation Act (30 U.S.C. 1201 *et seq.*) and the Multiple Mineral Development Act (30 U.S.C. 521–531), Part 3000 and Group 3400, Subchapter C, Chapter II of Title 43 of the Code of Federal Regulations is amended as set forth below.

Dated: December 21, 1982.

ames G. Watt,

ary of the Interior.

3000—[AMENDED]

3000.4 [Amended]

1. Section 3000.4 is amended by emoving from the beginning of the ection the word "Any" and replacing it vith the phrase "Except as provided in : 3427.2 of this title, any".

ART 3410—[AMENDED]

2. Section 3410.3–4 is amended by dding a new paragraph (d) to read:

3410.3–4 Surface protection and eclamation.

* * * *

(d) Where the surface of the land eing explored is privately owned, the uthorized officer shall have the uthority to terminate or adjust the eriod of liabilty and/or the amount of ability under the bond. The authorized fficer shall provide, 30 days prior to the ffective date of termination of the eriod of liability under the bond, a otice of termination to enable the rface owner to inspect the property id notify the authorized officer, in riting, of any deficiencies in clamation. Should the licensee and face owner be unable to agree on quacy of the reclamation, the uthorized officer shall make the final termination.

ART 3420—[AMENDED]

3420.2 [Amended]

3. Section 3420.2 is amended by:

A. Amending paragraph (a)(1) by moving the words "pertinent factors" d the semicolon at the end of ragraph (a)(1) and adding the phrase onsiderations, including input and vice from the Governors of the fected States regarding assumptions, ta, and other factors pertinent to the gion;";

B. Amending paragraph (a)(4) by sing the fourth sentence to read he regional coal team shall consider State Director's review and shall nsmit to the Secretary alternative sing levels and a preferred leasing el presented in ranges of tons to be ered for lease."; and

C. Amending paragraph (f) by moving from the last sentence the rds "shall not be constrained by the tablished leasing levels but rather".

3420.3–4 [Amended]

4. Section 3420.3–4(b)(1) is amended ng the period at the end of the sentence and adding the phrase "and shall identify the preferred alternative in the environmental impact statement."

5. Section 3420.4–3 is amended by adding a new paragraph (c) to read:

§ 3420.4–3 Preliminary tract delineation.

* * * * *

(c) Before determining whether to conduct a lease sale, the Secretary shall seek the recommendation of the Governor of the State(s) in which the lands proposed to be offered for lease are located as to whether or not to lease such lands and what alternative actions are available and what special conditions could be added to the proposed lease(s) to mitigate impacts. The Secretary shall accept the recommendations of the Governor(s) if he determines that they provide for a reasonable balance between the national interest and the State's interests. The Secretary shall communicate to the Governor(s) in writing and publish in the **Federal Register** the reasons for his determination to accept or reject such Governor's recommendations.

6. A new § 3420.6 is added to read:

§ 3420.6 Reoffer of tracts not sold in previous regional lease sales.

Following the offering of tracts in accordance with the procedures outlined in §§ 3420.2, 3420.3, 3420.4 and 3420.5, any tracts not sold in accordance with the above listed provisions may be reoffered for sale by the Department provided a lease sale schedule has been reviewed by the regional coal team and, after consultation with the Governor, adopted by the Secretary. Provisions of Subpart 3422 shall apply to these tracts.

7. Section 3425.1–4 is amended by adding a new paragraph (c) to read:

§ 3425.1–4 Emergency leasing.

* * * * *

(c) The authorized officer shall provide the Governor of the affected State(s) a notice of an emergency lease application when it is filed with the Bureau of Land Management.

8. Section 3425.1–8 is amended by adding a new paragraph (c) to read:

§ 3425.1–8 Rejection of applications.

* * * * *

(c) The authorized officer shall transmit reasonable notice of the rejection of an emergency lease application to the Governor of the affected State(s).

9. Section 3427.2 is amended by adding a new paragraph (k) to read:

§ 3427.2 Procedures.

* * * * *

(k) Any surface owner determined to be unqualified by decision of the field official of the surface management agency shall have 30 days from the date of receipt of such decision in which he/she may appeal the decision to the appropriate State Director of the Bureau of Land Management. The surface owner shall have the right to appeal the State Director's decision to the Director, Bureau of Land Management, within 30 days of receipt of that decision. Both appeals under this paragraph shall be in writing. As an exception to the provisions of § 3000.4 of this title, the decision of the Director shall be the final administrative action of the Department of the Interior.

PART 3430—[AMENDED]

§ 3430.5–4 [Amended]

10. Section 3430.5–4(b) is amended by adding after the words "authorized officer" the phrase "or at the request of the regional coal team or the Governor of the affected State(s),".

11. Section 3435.3–1(b) is revised to read:

§ 3435.3–1 Exchange notice.

* * * * *

(b) The exchange notice shall also be provided to the Governor of the affected State(s) concurrent with notice to the lessee or preference right lease applicant stating why the Secretary believes an exchange may be in the public interest.

* * * * *

12. Section 3435.3–3(a) is amended by adding at the end of the section the following sentence:

§ 3435.3–3 Agreement to terms.

* * * The authorized officer shall consult with the regional coal team prior to initiation of such negotiations and shall consult again prior to finalization of the negotiated exchange.

PART 3450—[AMENDED]

13. Section 3451.1 is amended by adding a new paragraph (e) to read:

§ 3451.1 Readjustment of lease terms.

* * * * *

(e) The Governor of the affected State(s) shall be notified prior to the readjustment of lease terms.

14. Section 3452.2–2 is amended by adding at the end of the section the following sentence:

§ 3452.2–2 Cancellation procedure.

* * * The Governor of the affected State(s) shall be given reasonable notice of action taken by the Department of the

Interior to initiate cancellation of the lease.

15. Section 3453.3–3 is amended by adding at the end of the section the following sentence:

§ 3453.3–3 Effective date.

* * * The Governor of the affected State(s) shall be given reasonable notice of any lease transfer.

[FR Doc. 83–835 Filed 1–11–83; 8:45 am]
BILLING CODE 4310–84–M

FEDERAL EMERGENCY MANAGEMENT AGENCY

44 CFR Part 64

[Docket No. FEMA 5481]

List of Communities Eligible for the Sale of Insurance Under the National Flood Insurance Program

AGENCY: Federal Emergency Management Agency.

ACTION: Final rule

SUMMARY: This rule lists communities participating in the National Flood Insurance Program (NFIP). These communities have applied to the program and have agreed to enact certain flood plain management measures. The communities' participation in the program authorizes the sale of flood insurance to owners of property located in the communities listed.

DATES: The date listed in the fourth column of the table.

ADDRESSES: Flood insurance policies for property located in the communities listed can be obtained from any licensed properety insurance agent or broker serving the eligible community, or from the National Flood Insurance Program (NFIP) at: P.O. Box 3429, Bethesda, Maryland 20034, Phone: (800) 638–6620.

FOR FURTHER INFORMATION CONTACT: Mr. Richard E. Sanderson, Chief, Natural Hazards Division, (202) 287–0270, 500 C Street Southwest, Donohoe Building, Room 505, Washington, DC 20472.

SUPPLEMENTARY INFORMATION: The National Flood Insurance Program (NFIP), enables property owners to purchase flood insurance at rates made reasonable through a Federal subsidy. In return, communities agree to adopt and administer local flood plain management measures aimed at protecting lives and new construction from future flooding. Since the communities on the attached list have recently entered the NFIP, subsidized flood insurance is now available for property in the community.

In addition, the Director of the Federal Emergency Management Agency has identified the special flood hazard areas in some of these communities by publishing a Flood Hazard Boundary Map. The date of the flood map, if one has been published, is indicated in the sixth column of the table. In the communities listed where a flood map has been published, Section 102 of the Flood Disaster Protection Act of 1973, as amended, requires the purchase of flood insurance as a condition of Federal or federally related financial assistance for acquisition or construction of buildings in the special flood hazard area shown on the map.

The Director finds that delayed effective dates would be contrary to the public interest. The Director also finds that notice and public procedure under 5 U.S.C. 553 (b) are impracticable and unnecessary.

The Catalog of Domestic Assistance Number for this program is 83.100 "Flood Insurance." This program is subject to procedures set out in OMB Circular A–95.

Pursuant to the provisions of 5 U.S.C. 605(b), the Associate Director, State and Local Programs and Support, to whom authority has been delegated by the Director, Federal Emergency Management Agency, hereby certifies that this rule, if promulgated will not have a significant economic impact on a substantial number of small entities. This rule provides routine legal notice stating the community's status in the NFIP and imposes no new requirements or regulations on participating communities.

List of Subjects in 44 CFR Part 64

Flood insurance, Flood plains.

Section 64.6 is amended by adding in alphabetical sequence new entries to the table.

In each entry, a complete chronology of effective dates appears for each listed community. The entry reads as follows:

§ 64.6 List of eligible communities.

State and county	Location	Community No.	Effective dates of authorization/cancellation of sale of flood insurance in community	Special flood hazard area identified
Pennsylvania: Berks	Wyomissing Hills, borough of	422237	Dec. 1, 1982, emergency	
Illinois: Tazewell	Marquette Heights, city of	170650	Dec. 2, 1982, emergency	Mar. 8, 1974.
Pennsylvania: Cambria	Munster, township of	422263	Dec. 3, 1982, emergency	Nov. 22, 1974.
Washington: Skagit	Mount Vernon, city of	530158	Jan. 2, 1975, emergency; Aug. 2, 1982, suspended; Dec. 2, 1982, reinstated.	May 7, 1976.
California: Los Angeles	West Covina, city of	060666	Dec. 9, 1982, emergency	
Texas: Fort Bend	First colony levee improvement district.	481583—New	do	
Arkansas: Clark	Caddo Valley, town of	050567A	Dec. 10, 1982, emergency	Mar. 20, 1979.
Ohio: Erie	Kelleys Island, village of	390738A	Apr. 30, 1975, emergency; Aug. 17, 1981, regular; Aug. 17, 1981, suspended; Dec. 9, 1982, reinstated.	Apr. 18, 1975.
Wisconsin: Waukesha	Muskego, city of	550486B	Apr. 12, 1974, emergency; Dec. 1, 1982, regular; Dec. 1, 1982, suspended; Dec. 13, 1982, reinstated.	June 21, 1974, and Aug. 6, 1976.
Tennessee:				
Dickson	Dickson, city of	470335	Dec. 16, 1982, emergency; Dec. 16, 1982, regular.	
Gibson	Unincorporated areas	470359	Dec. 16, 1982, emergency	
Pennsylvania: York	Yoe, borough of	420944B	July 29, 1975, emergency; Dec. 1, 1982, regular; Dec. 1, 1982, suspended; Dec. 16, 1982, reinstated.	June 28, 1974, and Aug. 27, 1976.
Arkansas: Sharp	Cave City, city of	050313	Dec. 10, 1982, emergency	July 18, 1975.
Illinois:				
McLean	Carlock, village of	170491	Dec. 23, 1982, emergency	Dec. 3, 1976.
Edwards	Unincorporated areas	170937	do	Oct. 27, 1978.
Washington: Columbia	Starbuck, city of	530031	do	Jan. 3, 1975.
Illinois: Will	Elwood, village of	170849A	Dec. 23, 1982, emergency; Dec. 23, 1982, regular.	Feb. 21, 1975, and Nov. 3, 1982.
[illegible]an: Oakland	Oakland, township of	260476B	Dec. 23, 1982, emergency; Dec. 23, 1982, regular.	Apr. 1, 1977, and Dec. 1, 1982.
[illegible]as:				
[illegible]cleburne	Quitman, city of	050280	Dec. 22, 1982, emergency	Apr. 9, 1976.

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

43 CFR Parts 3410 and 3420

[Circular No. 2518]

Interim Final Rulemaking Amending the Coal Management Regulations

Correction

In FR Doc. 83–385 beginning on page 1303 in the issue of Wednesday, January 12, 1983, make the following corrections:

1. On page 1305, first column, the caption for § 3410.3–4 now reading "Surface protection and reclamation" should have read:

§ 3410 3–4 Bonds

2. On the same page, middle column, the caption for § 3420.4–3 now reading "Preliminary tract delineation" should have read:

§ 3420.4–3 Consultation with Governors.

BILLING CODE 1505–01–M

Library

DEPT. OF INTERIOR
BUR. OF LAND MANAGEMENT
1983 MAR 14 PM 2:35
RECEIVED
MONTANA STATE OFFICE
BILLINGS, MONTANA

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

43 CFR Parts 3200, 3210 and 3240

[Circular No. 2519]

Geothermal Resources Leasing; Noncompetitive Leases

Under the authority of the Geothermal Steam Act of 1970 (30 U.S.C. 1001–1025). Parts 3200, 3210 and 3240, Group 3200, Subchapter C, Chapter II of Title 43 of the Code of Federal Regulations, are amended as set forth below:

PART 3200—[AMENDED]

§ 3205.3–1 [Amended]

1. Section 3205.3–1 is amended by removing from the first sentence the words "except an application filed pursuant to Subpart 3211 of this chapter, of this part."

PART 3210—[AMENDED]

2. Section 3210.1 is revised to read:

§ 3210.1 Availability of land.

(a) All lands subject to leasing that are not within a KGRA shall be available for lease application under the provisions of this subpart.

(b) For those particular lands included in canceled, relinquished, expired, or terminated leases, the BLM State Office having jurisdiction shall post a description of such lands on the first working day of a calendar month. Such lands shall then be available for lease applications beginning on the first working day of the calendar month following posting. Applications received prior to the first working day of the month following posting shall be considered filed on that date.

Subpart 3211—[Removed]

3. Subpart 3211 is removed in its entirety.

PART 3240—[AMENDED]

§ 3244.2–1 [Amended]

4. Section 3244.2–1 is amended by removing the last sentence.

Garrey E. Carruthers,
Assistant Secretary of the Interior.
January 18, 1983.

[FR Doc. 83–3780 Filed 2–10–83; 8:45 am]

Published 48 F.R. 6336 February 11, 1983 - Effective Date March 14, 1983

Library

DEPT. OF INTERIOR
OF LAND MANAGEMENT
1983 MAR 14 PM 2:35
RECEIVED
MONTANA STATE OFFICE
BILLINGS, MONTANA

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

43 CFR Part 3140

[Circular No. 2520]

Combined Hydrocarbon Leasing; Procedures for the Leasing of Combined Hydrocarbon Resources

Under the authority of the Combined Hydrocarbon Leasing Act of 1981 (95 Stat. 1070), the Mineral Leasing Act of 1920, as amended and supplemented (30 U.S.C. 181 et seq.), the Mineral Leasing Act for Acquired Lands, as amended (30 U.S.C. 351–359 et seq.) and the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1701 et seq.), Part 3140, Group 3100, Subchapter C, Chapter II of the Code of Federal Regulations is amended by adding a new Subpart 3141 as follows.

Subpart 3141—Competitive Leasing in Special Tar Sand Areas

Note.—The information collection requirements contained in 43 CFR Subpart 3141 do not require approval by the Office of Management and Budget under 44 U.S.C. 3501 et seq. because there are fewer than 10 respondents annually.

Sec.

3141.0–1 Purpose.
3141.0–3 Authority.
3141.0–5 Definitions.
3141.0–8 Effect of existing regulations.
3141.1 General.
3141.2 Prelease exploration within Special Tar Sand Areas.
3141.2–1 Geophysical exploration.
3141.2–2 Other exploration.
3141.3 Land use plans.
3141.4 Consultation.
3141.4–1 Consultation with the Governor.
3141.4–2 Consultation with others.
3141.5 Leasing procedures.
3141.5–1 Economic evaluation.
3141.5–2 Term of lease.
3141.5–3 Royalties and rentals.
3141.5–4 Lease size.
3141.5–5 Dating of lease.
3141.6 Sale procedures.
3141.6–1 Initiation of competitive lease offering.
3141.6–2 Publication of notice of competitive lease offering.
3141.6–3 Conduct of sales.
3141.6–4 Qualifications.
3141.6–5 Fair market value.
3141.6–6 Rejection of bid.
3141.6–7 Consideration of next highest bid.
3141.7 Award of lease.

Authority: 30 U.S.C. 181 et seq., 351 et seq., 43 U.S.C. 1701 et seq., 95 Stat. 1070.

Subpart 3141—Competitive Leasing in Special Tar Sand Areas

§ 3141.0–1 Purpose.

The purpose of this subpart is to provide for the competitive leasing of lands and issuance of Combined Hydrocarbon Leases within Special Tar Sand Areas.

§ 3141.0–3 Authority.

These regulations are issued under the authority of the Mineral Leasing Act of February 25, 1920 (30 U.S.C. 181 et seq.), the Mineral Leasing Act for Acquired Lands (30 U.S.C. 351 et seq.), the Federal Land Policy and Manangement Act of 1976 (43 U.S.C. 1701 et seq.), and the Combined Hydrocarbon Leasing Act of 1981 (95 Stat. 1070).

§ 3141.0–5 Definitions.

As used in this subpart, the term:

(a) "Combined hydrocarbon lease" means a lease issued in a Special Tar Sand Area for the removal of any gas and nongaseous hydrocarbon substance other than coal, oil shale or gilsonite.

(b) "Special Tar Sand Area" means an area designated by the Department of the Interior's Orders of November 20, 1980 (45 FR 76800), and January 21, 1981 (46 FR 6077), and referred to in those orders as Designated Tar Sand Areas, as containing substantial deposits of tar and sand.

(c) "Tar sand" means any consolidated or unconsolidated rock (other than coal, oil shale or gilsonite) that either: (1) contains a hydrocarbonaceous material with a gas-free viscosity, at original reservoir temperature greater than 10,000 centipoise, or (2) contains a hydrocarbonaceous material and is produced by mining or quarrying.

(d) "Oil" means all nongaseous hydrocarbon substances other than those substances leasable as coal, oil shale or gilsonite (including all vein-type solid hydrocarbons).

§ 3141.0–8 Effect of existing regulations.

(a) The following provisions of part 3100 of this title, as they relate to competitive leasing, apply to the issuance and administration of combined hydrocarbon leases issued under this part.

(1) All of subpart 3100, with the exception of §§ 3100.5–2 and 3100.6–2;

(2) None of subpart 3101, except that §§ 3101.1–1, 3101.2–1, 3101.2–2 and 3101.4–5 do apply:

(3) All of subpart 3102;

(4) All of subpart 3103, with the exception of §§ 3103.3–1, those portions of 3103.3–2 dealing with noncompetitive leases, and 3103.3–4(a);

(5) All of subpart 3104;

(6) All of subpart 3105, with the exception of § 3105.1–4;

(7) All of subpart 3106, with the exception of § 3106.3–4;

(8) All of subpart 3107, with the exception of § 3107.7;

(9) All of subpart 3108; and

(10) All of subpart 3109, with special emphasis on § 3109.5–2(e).

(b) Prior to commencement of operations, the lessee shall develop either a plan of operations as described in 30 CFR 231.10 which ensures reasonable protection of the environment or file an application for a permit to drill as described in 30 CFR Part 221, whichever is appropriate.

(c) The provisions of 30 CFR Part 226 shall serve as general guidance to the administration of combined hydrocarbon leases issued under this subpart to the extent they may be included in unit or cooperative agreements.

§ 3141.1 General.

(a) All oil and gas within a Special Tar Sand Area shall be leased only by competitive bonus bidding and only combined hydrocarbon leases shall be issued for oil and gas within such areas.

(b) The acreage of combined hydrocarbon leases held within a Special Tar Sand Area shall not be charged against acreage limitations for the holding of oil and gas leases.

(c)(1) The authorized officer may noncompetitively lease additional lands for ancillary facilities in a Special Tar Sand Area that are shown by an applicant to be needed to support any operations necessary for the recovery of tar sand. Such uses include, but are not limited to, mill siting or waste disposal. An application for a lease or permit to use additional lands shall be filed under the provisions of part 2920 of this title with the proper BLM office having jurisdiction of the lands. The application for additional lands may be filed at the time a plan of operations is filed.

(2) A lease for the use of additional lands shall not be issued under this part when the use can be authorized under part 2800 of this title. Such uses include, but are not limited to, reservoirs, pipelines, electrical generation systems, transmission lines, roads and railroads.

(3) Within units of the National Park System, permits or leases for additional lands for any purpose shall be issued only by the National Park Service. Applications for such permits or leases shall be filed with the Regional Director of the National Park Service.

Published 48 F.R. February 18, 1983 - Effective Date March 21, 1983

§ 3141.2 Prelease exploration within Special Tar Sand Areas.

§ 3141.2-1 Geophysical exploration.

Geophysical exploration in Special Tar Sand Areas shall be governed by subpart 3045 of this title. Information obtained under a permit shall be made available to the Bureau of Land Management upon request.

§ 3141.2-2 Exploration licenses.

(a) Any person(s) qualified to hold a lease under the provisions of subpart 3102 of this title and this subpart may obtain an exploration license to conduct core drilling and other exploration activities to collect geologic, environmental and other data concerning tar sand resources only on lands, the surface of which are under the jurisdiction of the Bureau of Land Management, within or adjacent to a Special Tar Sand Area. The application for such a license shall be submitted to the proper BLM office having jurisdiction of the lands. No drilling for oil or gas will be allowed under an exploration license issued under this subpart. No specific form is required for an application for an exploration license.

(b) The application for an exploration license shall be subject to the following requirements:

(1) Each application shall contain the name and address of the applicant(s);

(2) Each application shall be accompanied by a nonrefundable filing fee of $250.00;

(3) Each application shall contain a description of the lands covered by the application according to section, township and range in accordance with the official survey;

(4) Each application shall include 3 copies of an exploration plan which complies with the requirements of 30 CFR 231.10(a); and

(5) An application shall cover no more than 5,120 acres, which shall be as nearly compact as possible. The authorized officer may grant an exploration license covering more than 5,120 acres only if the application contains a justification for an exception to the normal limitation.

(c) The authorized officer may, if he/she determines it necessary to avoid impacts resulting from duplication of exploration activities, require applicants for exploration licenses to provide an opportunity for other parties to participate in exploration under the license on a pro rata cost sharing basis. If joint participation is determined necessary, it shall be conducted according to the following:

(1) Immediately upon the notification of a determination that parties shall be given an opportunity to participate in the exploration license, the applicant shall publish a "Notice of Invitation," approved by the authorized officer, once every week for 2 consecutive weeks in at least 1 newspaper of general circulation in the area where the lands covered by the exploration license are situated. This notice shall contain an invitation to the public to participate in the exploration license on a pro rata cost sharing basis. Copies of the "Notice of Invitation" shall be filed with the authorized officer at the time of publication by the applicant for posting in the proper BLM office having jurisdiction over the lands covered by the application for at least 30 days prior to the issuance of the exploration license.

(2) Any person seeking to participate in the exploration program described in the Notice of Invitation shall notify the authorized officer and the applicant in writing of such intention within 30 days after posting in the proper BLM office having jurisdiction over the lands covered by the Notice of Invitation. The authorized officer may require modification of the original exploration plan to accommodate the legitimate exploration needs of the person(s) seeking to participate and to avoid the duplication of exploration activities in the same area, or that the person(s) should file a separate application for an exploration license.

(3) An application to conduct exploration which could have been conducted under an existing or recent exploration license issued under this paragraph may be rejected.

(d) The authorized officer may accept or reject an exploration license application. An exploration license shall become effective on the date specifed by the authorized officer as the date when exploration activities may begin. The exploration plan approved by the Bureau of Land Management shall be attached and made a part of each exploration license.

(e) An exploration license shall be subject to these terms and conditions:

(1) The license shall be for a term of not more than 2 years;

(2) The rental shall be $2 per acre per year payable in advance;

(3) The licensee shall provide a bond in an amount determined by the authorized officer after consultation with the Mining Supervisor, but not less than $5,000. The authorized officer may accept bonds furnished under subpart 3104 of this title, if adequate. The period of liability under the bond shall be terminated only after the authorized officer determines that the terms and conditions of the license, the exploration plan and the regulations have been met;

(4) The licensee shall provide to the Bureau of Land Management upon request all required information obtained under the license. Any information provided shall be treated as confidential and proprietary, if appropriate, at the request of the licensee, and shall not be made public until the areas involved have been leased or only if the Bureau of Land Management determines that public access to the data will not damage the competitive position of the licensee.

(5) Operations conducted under a license shall not unreasonably interfere with or endanger any other lawful activity on the same lands, shall not damage any improvements on the lands, and shall not result in any substantial disturbance to the surface of the lands and their resources;

(6) The authorized officer shall include in each license requirements and stipulations to protect the environment and associated natural resources, and to ensure reclamation of the land disturbed by exploration operations;

(7) When unforeseen conditions are encountered that could result in an action prohibited by subparagraph (5) of this section, or when warranted by geologic or other physical conditions, the authorized officer may adjust the terms and conditions of the exploration license, may direct adjustment in the exploration plan;

(8) The licensee may submit a request for modification of the exploration plan to the authorized officer. Any modification shall be subject to the regulations in this section and the terms and conditions of the license. The authorized officer may approve the modification after any necessary adjustments to the terms and conditions of the license that are accepted in writing by the licensee; and

(9) The license shall be subject to termination or suspension as provided in § 2920.9–3 of this title.

§ 3141.3 Land use plans.

No lease shall be issued under this subpart unless the lands have been included in a land use plan which meets the requirements under Part 1600 of this title or an approved Minerals Management Plan of the National Park Service. The decision to hold a lease sale and issue leases shall be in conformance with the appropriate plan.

§ 3141.4 Consultation.

§ 3141.4-1 Consultation with the Governor.

The Secretary shall consult with the Governor of the State in which any tract proposed for sale is located. The Secretary shall give the Governor 30 days to comment before determining whether to conduct a lease sale. The Secretary shall seek the recommendations of the Governor of the State in which the lands proposed for lease are located as to whether or not to lease such lands and what alternative actions are available and what special conditions could be added to the proposed lease(s) to mitigate impacts. The Secretary shall accept the recommendations of the Governor if he/she determines that they provide for a reasonable balance between the national interest and the State's interest. The Secretary shall communicate to the Governor in writing and publish in the Federal Register the reasons for his/her

determination to accept or reject such Governor's recommendations.

§ 3141.4–2 Consultation with others.

(a) Where the surface is administered by an agency other than the Bureau of Land Management, including lands patented or leased under the provisions of the Recreation and Public Purposes Act, as amended (43 U.S.C. 869 et seq.), all leasing under this subpart shall be in accordance with the consultation requirements of subpart 3100 of this title.

(b) The issuance of combined hydrocarbon leases within units of the National Park System shall be allowed only where mineral leasing is permitted by law and where the lands are open to mineral resource disposition in accordance with any applicable Minerals Management Plan. In order to consent to any issuance of a combined hydrocarbon lease or subsequent development of combined hydrocarbon resources within a unit of National Park System, the Regional Director of the National Park Service shall find that there will be no resulting significant adverse impacts to the resources and administration of the unit or other contiguous units of the National Park System in accordance with § 3109.5–2(e) of this title.

§ 3141.5 Leasing procedures.

§ 3141.5–1 Economic evaluation.

Prior to any lease sale, the authorized officer shall request an economic evaluation of the total hydrocarbon resource on each proposed lease tract exclusive of coal, oil shale or gilsonite.

§ 3141.5–2 Term of lease.

Combined hydrocarbon leases shall have a primary term of 10 years and shall remain in effect so long thereafter as oil or gas is produced in paying quantities.

§ 3141.5–3 Royalties and rentals.

(a) The royalty rate on all combined hydrocarbon leases in 12½ percent of the value of production removed or sold from a lease. The Minerals Management Service shall be responsible for assessing tha administering royalties.

(b) The lessee may request the Secretary to reduce the royalty rate applicable to tar sand prior to commencement of commercial operations in order to promote development and maximum production of the tar sand resource in accordance with procedures established by the Bureau of Land Managment and may request a reduction in the royalty after commencement of commercial operations in accordance with § 3103.3–7 of this title.

(c) The rental rate for a combined hydrocarbon lease shall be $2 per acre per year, and shall be payable annually in advance.

(d) Except as explained in paragraphs (a), (b), and (c) of this section, all other provisions of subpart 3103.3 of this title apply to combined hydrocarbon leasing.

§ 3141.5–4 Lease size.

Combined hydrocarbon leases shall not exceed 5,120 acres.

§ 3141.5–5 Dating of lease.

A combined hydrocarbon lease shall be effective as of the first day of the month following the date the lease is signed on behalf of the United States, except that where prior written request is made, a lease may be made effective on the first of the month in which the lease is signed.

§ 3141.6 Sale procedures.

§ 3141.6–1 Initiation of competitive lease offering.

The Bureau of Land Management may, on its own motion, offer lands through competitive bidding. A request or expression(s) of interest in tract(s) for competitive lease offerings shall be submitted in writing to the proper BLM office.

§ 3141.6–2 Publication of a notice of competitive lease offering.

Where a determination to offer lands for competitive leasing is made, a notice shall be published of the lease sale in the **Federal Register** and a newspaper of general circulation in the area in which the lands to be leased are located. The publication shall appear once in the **Federal Register** and at least once a week for 3 consecutive weeks in a newspaper, or for other such periods deemed necessary. The notice shall specify the time a place of sale, the manner in which the bids may be submitted; the description of the lands; the terms and conditions of the lease, including the royalty and rental rates; the amount of the minimum bid; and shall state that the terms and conditions of the leases are available for inspection and designate the proper BLM office where bid forms may be obtained.

§ 3141.6–3 Conduct of sales.

(a) Competitive sales shall be conducted by the submission of written sealed bids.

(b) Minimum bids shall be not less than $25 per acre.

(c) In the event that only 1 sealed bid is received and it is equal to or greater than the minimum bid, that bid shall be considered the highest bid.

(d) The authorized officer may reject any or all bids.

(e) The authorized officer may waive minor deficiencies in the bids or the lease sale advertisement.

(f) A bid deposit of one-fifth of the amount of the sealed bid shall be required and shall accompany the sealed bid. All bid deposits shall be in the form of either a certified check, money order, bank cashier's check or cash.

§ 3141.6–4 Qualifications.

Each bidder shall submit with the bid a statement over the bidder's signature with respect to compliance with subpart 3102 of this title.

§ 3141.6–5 Fair market value.

Only those bids which reflect the fair market value of the tract(s) as determined by the authorized officer shall be accepted; all other bids shall be rejected.

§ 3141.6–6 Rejection of bid.

If the high bid is rejected for failure by the successful bidder to execute the lease forms and pay the balance of the bonus bid, or otherwise to comply with the regulations of this subpart, the one-fifth bonus accompanying the bid shall be forfeited.

§ 3141.6–7 Consideration of next highest bid.

The Department reserves the right to accept the next highest bid if the highest bid is rejected. In no event shall an offer be made to the next bidder if the difference beween his/her bid and that of the successful bidder is greater than the one-fifth bonus forfeited by the rejected successful bidder.

§ 3141.7 Award of lease.

After determining the highest responsible qualified bidder, the authorized officer shall send 3 copies of the lease on a form approved by the Director, and any necessary stipulations, to the successful bidder. The successful bidder shall, not later than the 30th day after receipt of the lease, execute the lease, pay the balance of the bid and the first year's rental, and file a bond as required in subpart 3104 of this title. Failure to comply with this section shall result in rejection of the lease.

Garrey E. Carruthers,
Secretary of the Interior.
January 18, 1983.

[FR Doc. 83–4231 Filed 2–17–83; 8:45 am]

#2520

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

43 CFR Part 3140

[Circular No. 2520]

Combined Hydrocarbon Leasing; Procedures for the Leasing of Combined Hydrocarbon Resources

AGENCY: Bureau of Land Management, Interior.

ACTION: Final rulemaking.

SUMMARY: This final rulemaking provides the procedure to be used by the Secretary of the Interior in implementing a competitive leasing program in Special Tar Sand Areas as required by the Combined Hydrocarbon Leasing Act of 1981.

EFFECTIVE DATE: March 21, 1983.

ADDRESS: Any inquiries or suggestions should be sent to: Director (540), Bureau of Land Management, 1800 C Street, N.W., Washington, D.C. 20240.

FOR FURTHER INFORMATION CONTACT:
Edward E. Coggs (202) 343–3258,
or
Richard J. Aiken (202) 343–3258,
or
Robert C. Bruce (202) 343–8735

SUPPLEMENTARY INFORMATION: The proposed rulemaking providing procedures for the Leasing of Combined Hydrocarbon Resources was published in the Federal Register on June 14, 1982 (47 FR 25720), with a 45-day comment period. In addition, a public information meeting was held on the proposed rulemaking in Salt Lake City, Utah, on June 15, 1982.

During the comment period, ten written comments were received on the proposed rulemaking, seven from industry sources and three from Federal agencies. These written comments and the oral comments received at the information meeting were given careful consideration.

In general, the comments were favorable to the proposed rulemaking and its purpose. The comments expressed satisfaction at the speed with which the Department of the Interior was implementing the provisions of the Combined Hydrocarbon Leasing Act of 1981 (95 Stat. 1070). The comments on specific points will be discussed in the section they cover. Only those sections that were the subject of comments will be discussed.

Section 3141.0–5 Definitions

The term "Special Tar Sand Area" contained in paragraph (b) has been amended by the final rulemaking to clarify that the orders designating the Special Tar Sand Areas were orders of the Department of the Interior, rather than Secretarial orders. This is a technical correction.

A new paragraph has been added to the definition section by the final rulemaking. This paragraph defines the term "oil". The decision to add this term was based on the fact that its addition clarifies the final rulemaking, making it easier to understand.

Section 3141.0–8 Effect of existing regulations

Several comments were received on this section of the proposed rulemaking which recommend additions to the language of paragraph (a) to specifically identify those provisions of 43 CFR Part 3100 that are applicable to the provisions on competitive combined hydrocarbon leases. In the alternative, the comments suggested that additional sections be added to the final rulemaking to specifically provide the detailed procedures to be used in issuing combined hydrocarbon leases. After careful consideration of this issue, the final rulemaking amends paragraph (a) to provide a detailed listing of those sections of part 3100 that are applicable to combined hydrocarbon leasing. When the proposed rulemaking revising 43 CFR Group 3100 is finalized, any needed changes will be made to this section.

One comment on paragraph (b) of the proposed rulemaking objected to the inclusion of the provision concerning diligent development because the Combined Hydrocarbon Leasing Act, in the comment's view, does not impose a requirement for diligent development on leases issued under its provisions. The point raised in the comment was well taken and paragraph (b) has been amended to state that the provisions of 30 CFR Part 231 apply to the development and approval of plans of operations on combined hydrocarbon leases issued under this subpart. This includes the requirement that prior to commencement of operations, the successful lessee shall either develop a plan of operations as provided in 30 CFR 231.10 or file an application for a permit to drill as provided in 30 CFR Part 221. Since the requirements for a plan of operations provided in 30 CFR 231.10 presently contain no requirement to demonstrate diligence, this requirement has been removed by the final rulemaking. In addition, the 10-year primary term for a combined hydrocarbon lease appears sufficient incentive for diligent development of tar sand under a combined hydrocarbon lease. However, the Department of the Interior expects its lessees to conduct all development activities in a manner consistent with the prudent operator standard of diligent development. In addition, the final rulemaking amends paragraph (b) for clarity.

Section 3141.1 General

A comment was received concerning applications for a lease or permit filed under 43 CFR Part 2920. The comment suggested that the term of any lease issued in association with a combined hydrocarbon lease run for a period at least as long as that of the combined hydrocarbon lease. Section 2920.9–3(a) provides various methods by which a lease or permit will terminate and governs the term of such leases or permits. This provision gives an authorized officer all the authority needed to set the term of an associated lease or permit and no change has been made in this portion of the proposed rulemaking by the final rulemaking.

Paragraph (a) of this section has been revised by the final rulemaking to clarify its intent. Another change made by the final rulemaking in this section and other sections of the proposed rulemaking, is to remove the reference to the Utah State Office of the Bureau of Land Management in order to follow the existing procedure of referring to the proper BLM office. Once the revised regulations for 43 CFR Group 3100 are finalized, the term "proper BLM office" defined in that revision will apply to this subpart.

Section 3141.2–2 Exploration licenses

The purpose of this section of the proposed rulemaking is to establish procedures which would allow an individual to conduct core drilling and other exploration activities within Special Tar Sand Areas only for tar sand resources by obtaining an exploration license. All applications for an exploration license would be processed in accordance with the procedures outlined in this section. Language has been added to the final rulemaking to make it clear that its provisions are only applicable to those lands where the surface is under the jurisdiction of the Bureau of Land Management.

Another comment recommended that the final rulemaking allow for the issuance of exploration licenses on areas outside a designated Special Tar Sand Area. Exploration licenses are issued under the authority granted the Secretary of the Interior to manage the public lands and their resources by various statutes. This authority is not limited to Special Tar Sand Areas.

Therefore, this section of the final rulemaking has been amended to allow the issuance of exploration licenses for tar sand for areas adjacent to Special Tar Sand Areas. This amendment will allow greater administrative efficiency in the issuance of exploration licenses for tar sand. However, it should be noted that the Combined Hydrocarbon Leasing Act limits the authority of the Secretary of the Interior to issue combined hydrocarbon leases to designated Special Tar Sand Areas.

Paragraph (b)(5) has been amended by the final rulemaking to require the applicant to justify the granting of an exploration license for an area in excess of 5,120 acres. This amendment clarifies the intent of this paragraph of the proposed rulemaking.

Paragraph (c) of the proposed rulemaking required an applicant for an exploration license to permit an opportunity for participation by others in the exploration activity on a pro rata cost share basis. This requirement was objected to by several comments. After careful consideration of the comments and the purpose of the paragraph, the final rulemaking has been amended to give the authorized officer discretionary authority to require an applicant to provide an opportunity for participation in exploration activity under an exploration license.

A comment on paragraph (e)(2) of the proposed rulemaking questioned the $2 per acre per year fee required by the proposed rulemaking and recommended that it be reduced or eliminated. After careful consideration of the comment and its implications, the $2 per acre per year rental has been retained by the final rulemaking because it represents an adequate return to the taxpayers for the activities covered by the rulemaking.

Paragraph (e)(4) of the proposed rulemaking has been amended by the final rulemaking to clarify the intent of the proposed rulemaking that information will be supplied by an exploration licensee only upon the request of the Bureau of Land Management. Another change made to this paragraph by the final rulemaking was in response to several comments concerning the period of time that proprietary data would be treated as confidential. The comments expressed the view that the 3-year limit provided by the proposed rulemaking was too short and might compromise the competitive position of licensees. The change made by the final rulemaking provides the Bureau of Land Management with discretion to release the data when it determines that public access to the data will not damage the competitive position of the licensee.

Paragraph (e)(8) of the proposed rulemaking has been revised by the final rulemaking to clarify its requirements. A careful analysis of the paragraph indicated that its provisions were confusing and needed clarification.

Section 3141.4–2 Consultation With Others

One comment was received on this section of the proposed rulemaking. The comment raised questions about the language of the consultation process and recommended that it be expanded and clarified, with special emphasis on the limitations on the issuance of combined hydrocarbon leases in units of the National Park System. The final rulemaking revises the section, dividing it into two paragraphs and expanding its scope.

In addition, to further the Department of the Interior's policy of consultation with the affected State government, this section is revised to state more clearly that the Secretary of the Interior will solicit detailed recommendations from the Governor of the affected State concerning which tracts to lease. Language has also been added to this section to provide for sending written notice to the Governor of the affected State concerning acceptance or rejection of his/her recommendation regarding lease sales. Provision has also been made for publication of his/her decision in the Federal Register in addition to the written notification.

Section 3141.5–1 Economic Evaluation

Two changes have been made in this section by the final rulemaking. The first change is a clarification that makes it clear that the authorized officer will request an economic evaluation on each proposed lease tract prior to a lease sale. A second change made by the final rulemaking is moving the minimum bid requirement to the section on conduct of sale, where it more appropriately belongs.

Section 3141.5–3 Royalties and Rentals

This section of the proposed rulemaking, which received several comments, establishes the royalty rate for combined hydrocarbon leases. It is recognized that some methods of extraction will result in the value of the product produced from tar sand differing from that produced from more traditional sources. In accordance with section 7 of the Combined Hydrocarbon Leasing Act, this section allows the Secretary of the Interior, at the request of the lessee, to review and reduce the lease royalty rate prior to the commencement of comercial operations, with the intent of promoting development and maximizing production of the resource by requiring enhanced recovery methods. The final rulemaking amends the proposed rulemaking to provide that the Bureau of Land Management will establish the procedures for implementing the pre-production royalty rate reduction.

One of the principal issues raised in the comments on royalty reduction was a request that the potential lessees be assured that a reduction would be granted upon a reasonable request. The final rulemaking makes no change on this point. However, the Secretary of the Interior will be responsive in carrying out the provisions of the Combined Hydrocarbon Leasing Act and will use the discretion granted by that Act to promote development and maximize production of the tar sand resource. It would be inappropriate to limit the Secretary's discretionary authority by having the final rulemaking require the granting of a royalty rate reduction upon request, as some comments suggested.

In addition, several comments were received on this section of the proposed rulemaking which dealt with the procedure that would be used for establishing the basic royalty rate for tar sands. Specific questions were raised on what the royalty would be computed upon, and where in the processing procedure the royalty would be assessed. As noted in the comments, these issues are beyond the purview of this rulemaking. The Bureau of Land Management is presently developing procedures for addressing these issues. No change has been made on this point by the final rulemaking.

Section 3141.6–2 Publication of Notice of Competitive Lease Offering

In addition to some editorial changes that have been made by the final rulemaking for clarity, this section has been amended to require that the notice of competitive lease offering contain a notice of the amount of the minimum bid.

Section 3141.6–3 Conduct of Sales

Several comments were received that questioned whether sealed bidding followed by oral bidding provided by the proposed rulemaking would in fact encourage competition in the leasing process. In response to these comments and in keeping with Department of the Interior policy, this section has been changed by the final rulemaking to remove all mention of oral bidding.

As indicated earlier in this preamble, the final rulemaking moves the minimum bid requirement to this section, where it more appropriately belongs.

Section 3141.6–4 Qualifications

This section of the proposed rulemaking has been clarified by the final rulemaking to require that the bid statement must be signed by the bidder. The proposed rulemaking was not clear as to who was required to sign the bid statement.

Section 3141.6–5 Fair Market Value

In keeping with current Department of the Interior policies, the final rulemaking has a new section 3141.6–5 requiring a post-sale evaluation by the Bureau of Land Management to determine if the bids do in fact reflect fair market value of each tract offered through the competitive leasing program. This evaluation will assure the public that they have received fair market value for the use of the resources.

Miscellaneous

One comment was made regarding the Windfall Profit Taxes. Windfall Profit Taxes are outside the scope of this rulemaking and no action can be taken on the comment.

Editorial and grammatical changes, as needed, have been made.

The primary authors of this final rulemaking are Richard J. Aiken and Edward E. Coggs, Division of Coal, Tar Sands and Oil Shale, Bureau of Land Management, Bob Randolph and Orvall Ladley, Utah State Office, Bureau of Land Management, assisted by William Murray, Division of Energy and Resources, Office of the Solicitor, Department of the Interior and the staff of the Office of Legislation and Regulatory Management, Bureau of Land Management.

The Department of the Interior has determined that this document is not a major rule under Executive Order 12291 and that it will not have a significant economic effect on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 et seq.).

This rulemaking is not expected to have an impact of $100 million annually on the economy since 70–80 percent of the resource available in the Special Tar Sand Areas is available for noncompetitive leasing under the conversion section of the Combined Hydrocarbon Leasing Act. The demand for competitively leased tar sand is expected to be limited to holders of converted combined hydrocarbon leases who will be seeking to round out their holdings. The cost of oil and gas development under this rulemaking will not differ significantly from that incurred under the oil and gas leasing regulations in Group 3100, although the cost of tar sand development will be higher than under the conversion regulations.

As pointed out in the preamble to the proposed rulemaking, the leasing provisions provided in this rulemaking are available to all entities wishing to avail themselves of the opportunity to lease combined hydrocarbon resources, regardless of the size of the entity. The final rulemaking follows the guidance set out in the Combined Hydrocarbon Leasing Act and is designed to provide an equitable process for leasing and development of combined hydrocarbon resources.

The information collection requirements contained in 43 CFR Subpart 3141 do not require approval by the Office of Management and Budget under 44 U.S.C. 3501 et seq. because there are fewer than ten respondents annually.

List of Subjects in 43 CFR Part 3140

Administrative practice and procedure, Environmental protection, Mineral royalties, Oil and gas reserves, Public lands—mineral resources.

Under the authority of the Combined Hydrocarbon Leasing Act of 1981 (95 Stat. 1070), the Mineral Leasing Act of 1920, as amended and supplemented (30 U.S.C. 181 et seq.), the Mineral Leasing Act for Acquired Lands, as amended (30 U.S.C. 351–359 et seq.) and the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1701 et seq.), Part 3140, Group 3100, Subchapter C, Chapter II of the Code of Federal Regulations is amended by adding a new Subpart 3141 as follows.

Garrey E. Carruthers,

Secretary of the Interior.

January 18, 1983.

Subpart 3141—Competitive Leasing in Special Tar Sand Areas

Note.—The information collection requirements contained in 43 CFR Subpart 3141 do not require approval by the Office of Management and Budget under 44 U.S.C. 3501 et seq. because there are fewer than 10 respondents annually.

Sec.

3141.0–1 Purpose.
3141.0–3 Authority.
3141.0–5 Definitions.
3141.0–8 Effect of existing regulations.
3141.1 General.
3141.2 Prelease exploration within Special Tar Sand Areas.
3141.2–1 Geophysical exploration.
3141.2–2 Other exploration.
3141.3 Land use plans.
3141.4 Consultation.
3141.4–1 Consultation with the Governor.
3141.4–2 Consultation with others.
3141.5 Leasing procedures.
3141.5–1 Economic evaluation.
3141.5–2 Term of lease.
3141.5–3 Royalties and rentals.
3141.5–4 Lease size.
3141.5–5 Dating of lease.
3141.6 Sale procedures.
3141.6–1 Initiation of competitive lease offering.
3141.6–2 Publication of notice of competitive lease offering.
3141.6–3 Conduct of sales.
3141.6–4 Qualifications.
3141.6–5 Fair market value.
3141.6–6 Rejection of bid.
3141.6–7 Consideration of next highest bid.
3141.7 Award of lease.

Authority: 30 U.S.C. 181 et seq., 351 et seq., 43 U.S.C. 1701 et seq., 95 Stat. 1070.

Subpart 3141—Competitive Leasing in Special Tar Sand Areas

§ 3141.0–1 Purpose.

The purpose of this subpart is to provide for the competitive leasing of lands and issuance of Combined Hydrocarbon Leases within Special Tar Sand Areas.

§ 3141.0–3 Authority.

These regulations are issued under the authority of the Mineral Leasing Act of February 25, 1920 (30 U.S.C. 181 et seq.), the Mineral Leasing Act for Acquired Lands (30 U.S.C. 351 et seq.), the Federal Land Policy and Manangement Act of 1976 (43 U.S.C. 1701 et seq.), and the Combined Hydrocarbon Leasing Act of 1981 (95 Stat. 1070).

§ 3141.0–5 Definitions.

As used in this subpart, the term:

(a) "Combined hydrocarbon lease" means a lease issued in a Special Tar Sand Area for the removal of any gas and nongaseous hydrocarbon substance other than coal, oil shale or gilsonite.

(b) "Special Tar Sand Area" means an area designated by the Department of the Interior's Orders of November 20, 1980 (45 FR 76800), and January 21, 1981 (46 FR 6077), and referred to in those orders as Designated Tar Sand Areas, as containing substantial deposits of tar and sand.

(c) "Tar sand" means any consolidated or unconsolidated rock (other than coal, oil shale or gilsonite) that either: (1) contains a hydrocarbonaceous material with a gas-free viscosity, at original reservoir temperature greater than 10,000 centipoise, or (2) contains a hydrocarbonaceous material and is produced by mining or quarrying.

(d) "Oil" means all nongaseous hydrocarbon substances other than those substances leasable as coal, oil shale or gilsonite (including all vein-type solid hydrocarbons).

§ 3141.0–6 Effect of existing regulations.

(a) The following provisions of part 3100 of this title, as they relate to competitive leasing, apply to the issuance and administration of combined hydrocarbon leases issued under this part.

(1) All of subpart 3100, with the exception of §§ 3100.5–2 and 3100.6–2;

(2) None of subpart 3101, except that §§ 3101.1–1, 3101.2–1, 3101.2–2 and 3101.4–5 do apply;

(3) All of subpart 3102;

(4) All of subpart 3103, with the exception of §§ 3103.3–1, those portions of 3103.3–2 dealing with noncompetitive leases, and 3103.3–4(a);

(5) All of subpart 3104;

(6) All of subpart 3105, with the exception of § 3105.1–4;

(7) All of subpart 3106, with the exception of § 3106.3–4;

(8) All of subpart 3107, with the exception of § 3107.7;

(9) All of subpart 3108; and

(10) All of subpart 3109, with special emphasis on § 3109.5–2(e).

(b) Prior to commencement of operations, the lessee shall develop either a plan of operations as described in 30 CFR 231.10 which ensures reasonable protection of the environment or file an application for a permit to drill as described in 30 CFR Part 221, whichever is appropriate.

(c) The provisions of 30 CFR Part 226 shall serve as general guidance to the administration of combined hydrocarbon leases issued under this subpart to the extent they may be included in unit or cooperative agreements.

§ 3141.1 General.

(a) All oil and gas within a Special Tar Sand Area shall be leased only by competitive bonus bidding and only combined hydrocarbon leases shall be issued for oil and gas within such areas.

(b) The acreage of combined hydrocarbon leases held within a Special Tar Sand Area shall not be charged against acreage limitations for the holding of oil and gas leases.

(c)(1) The authorized officer may noncompetitively lease additional lands for ancillary facilities in a Special Tar Sand Area that are shown by an applicant to be needed to support any operations necessary for the recovery of tar sand. Such uses include, but are not limited to, mill siting or waste disposal. An application for a lease or permit to use additional lands shall be filed under the provisions of part 2920 of this title with the proper BLM office having jurisdiction of the lands. The application for additional lands may be filed at the time a plan of operations is filed.

(2) A lease for the use of additional lands shall not be issued under this part when the use can be authorized under part 2800 of this title. Such uses include, but are not limited to, reservoirs, pipelines, electrical generation systems, transmission lines, roads and railroads.

(3) Within units of the National Park System, permits or leases for additional lands for any purpose shall be issued only by the National Park Service. Applications for such permits or leases shall be filed with the Regional Director of the National Park Service.

§ 3141.2 Prelease exploration within Special Tar Sand Areas.

§ 3141.2–1 Geophysical exploration.

Geophysical exploration in Special Tar Sand Areas shall be governed by subpart 3045 of this title. Information obtained under a permit shall be made available to the Bureau of Land Management upon request.

§ 3141.2–2 Exploration licenses.

(a) Any person(s) qualified to hold a lease under the provisions of subpart 3102 of this title and this subpart may obtain an exploration license to conduct core drilling and other exploration activities to collect geologic, environmental and other data concerning tar sand resources only on lands, the surface of which are under the jurisdiction of the Bureau of Land Management, within or adjacent to a Special Tar Sand Area. The application for such a license shall be submitted to the proper BLM office having jurisdiction of the lands. No drilling for oil or gas will be allowed under an exploration license issued under this subpart. No specific form is required for an application for an exploration license.

(b) The application for an exploration license shall be subject to the following requirements:

(1) Each application shall contain the name and address of the applicant(s);

(2) Each application shall be accompanied by a nonrefundable filing fee of $250.00;

(3) Each application shall contain a description of the lands covered by the application according to section, township and range in accordance with the official survey;

(4) Each application shall include 3 copies of an exploration plan which complies with the requirements of 30 CFR 231.10(a); and

(5) An application shall cover no more than 5,120 acres, which shall be as nearly compact as possible. The authorized officer may grant an exploration license covering more than 5,120 acres only if the application contains a justification for an exception to the normal limitation.

(c) The authorized officer may, if he/she determines it necessary to avoid impacts resulting from duplication of exploration activities, require applicants for exploration licenses to provide an opportunity for other parties to participate in exploration under the license on a pro rata cost sharing basis. If joint participation is determined necessary, it shall be conducted according to the following:

(1) Immediately upon the notification of a determination that parties shall be given an opportunity to participate in the exploration license, the applicant shall publish a "Notice of Invitation," approved by the authorized officer, once every week for 2 consecutive weeks in at least 1 newspaper of general circulation in the area where the lands covered by the exploration license are situated. This notice shall contain an invitation to the public to participate in the exploration license on a pro rata cost sharing basis. Copies of the "Notice of Invitation" shall be filed with the authorized officer at the time of publication by the applicant for posting in the proper BLM office having jurisdiction over the lands covered by the application for at least 30 days prior to the issuance of the exploration license.

(2) Any person seeking to participate in the exploration program described in the Notice of Invitation shall notify the authorized officer and the applicant in writing of such intention within 30 days after posting in the proper BLM office having jurisdiction over the lands covered by the Notice of Invitation. The authorized officer may require modification of the original exploration plan to accommodate the legitimate exploration needs of the person(s) seeking to participate and to avoid the duplication of exploration activities in the same area, or that the person(s) should file a separate application for an exploration license.

(3) An application to conduct exploration which could have been conducted under an existing or recent exploration license issued under this paragraph may be rejected.

(d) The authorized officer may accept or reject an exploration license application. An exploration license shall become effective on the date specifed by the authorized officer as the date when exploration activities may begin. The exploration plan approved by the Bureau of Land Management shall be attached and made a part of each exploration license.

(e) An exploration license shall be subject to these terms and conditions:

(1) The license shall be for a term of not more than 2 years;

(2) The rental shall be $2 per acre per year payable in advance;

(3) The licensee shall provide a bond in an amount determined by the authorized officer after consultation with the Mining Supervisor, but not less than $5,000. The authorized officer may accept bonds furnished under subpart 3104 of this title, if adequate. The period of liability under the bond shall be terminated only after the authorized officer determines that the terms and conditions of the license, the exploration plan and the regulations have been met;

(4) The licensee shall provide to the Bureau of Land Management upon request all required information obtained under the license. Any information provided shall be treated as confidential and proprietary, if appropriate, at the request of the licensee, and shall not be made public until the areas involved have been leased or only if the Bureau of Land Management determines that public access to the data will not damage the competitive position of the licensee.

(5) Operations conducted under a license shall not unreasonably interfere with or endanger any other lawful activity on the same lands, shall not damage any improvements on the lands, and shall not result in any substantial disturbance to the surface of the lands and their resources;

(6) The authorized officer shall include in each license requirements and stipulations to protect the environment and associated natural resources, and to ensure reclamation of the land disturbed by exploration operations;

(7) When unforeseen conditions are encountered that could result in an action prohibited by subparagraph (5) of this section, or when warranted by geologic or other physical conditions, the authorized officer may adjust the terms and conditions of the exploration license, may direct adjustment in the exploration plan;

(8) The licensee may submit a request for modification of the exploration plan to the authorized officer. Any modification shall be subject to the regulations in this section and the terms and conditions of the license. The authorized officer may approve the modification after any necessary adjustments to the terms and conditions of the license that are accepted in writing by the licensee; and

(9) The license shall be subject to termination or suspension as provided in § 2920.9–3 of this title.

§ 3141.3 Land use plans.

No lease shall be issued under this subpart unless the lands have been included in a land use plan which meets the requirements under Part 1600 of this title or an approved Minerals Management Plan of the National Park Service. The decision to hold a lease sale and issue leases shall be in conformance with the appropriate plan.

§ 3141.4 Consultation.

§ 3141.4–1 Consultation with the Governor.

The Secretary shall consult with the Governor of the State in which any tract proposed for sale is located. The Secretary shall give the Governor 30 days to comment before determining whether to conduct a lease sale. The Secretary shall seek the recommendations of the Governor of the State in which the lands proposed for lease are located as to whether or not to lease such lands and what alternative actions are available and what special conditions could be added to the proposed lease(s) to mitigate impacts. The Secretary shall accept the recommendations of the Governor if he/she determines that they provide for a reasonable balance between the national interest and the State's interest. The Secretary shall communicate to the Governor in writing and publish in the Federal Register the reasons for his/her determination to accept or reject such Governor's recommendations.

§ 3141.4–2 Consultation with others.

(a) Where the surface is administered by an agency other than the Bureau of Land Management, including lands patented or leased under the provisions of the Recreation and Public Purposes Act, as amended (43 U.S.C. 869 et seq.), all leasing under this subpart shall be in accordance with the consultation requirements of subpart 3100 of this title.

(b) The issuance of combined hydrocarbon leases within units of the National Park System shall be allowed only where mineral leasing is permitted by law and where the lands are open to mineral resource disposition in accordance with any applicable Minerals Management Plan. In order to consent to any issuance of a combined hydrocarbon lease or subsequent development of combined hydrocarbon resources within a unit of National Park System, the Regional Director of the National Park Service shall find that there will be no resulting significant adverse impacts to the resources and administration of the unit or other contiguous units of the National Park System in accordance with § 3109.5–2(e) of this title.

§ 3141.5 Leasing procedures.

§ 3141.5–1 Economic evaluation.

Prior to any lease sale, the authorized officer shall request an economic evaluation of the total hydrocarbon resource on each proposed lease tract exclusive of coal, oil shale or gilsonite.

§ 3141.5–2 Term of lease.

Combined hydrocarbon leases shall have a primary term of 10 years and shall remain in effect so long thereafter as oil or gas is produced in paying quantities.

§ 3141.5–3 Royalties and rentals.

(a) The royalty rate on all combined hydrocarbon leases in 12½ percent of the value of production removed or sold from a lease. The Minerals Management Service shall be responsible for assessing tha administering royalties.

(b) The lessee may request the Secretary to reduce the royalty rate applicable to tar sand prior to commencement of commercial operations in order to promote development and maximum production of the tar sand resource in accordance with procedures established by the Bureau of Land Managment and may request a reduction in the royalty after commencement of commercial operations in accordance with § 3103.3–7 of this title.

(c) The rental rate for a combined hydrocarbon lease shall be $2 per acre per year, and shall be payable annually in advance.

(d) Except as explained in paragraphs (a), (b), and (c) of this section, all other provisions of subpart 3103.3 of this title apply to combined hydrocarbon leasing.

§ 3141.5–4 Lease size.

Combined hydrocarbon leases shall not exceed 5,120 acres.

§ 3141.5–5 Dating of lease.

A combined hydrocarbon lease shall be effective as of the first day of the month following the date the lease is signed on behalf of the United States, except that where prior written request is made, a lease may be made effective on the first of the month in which the lease is signed.

§ 3141.6 Sale procedures.

§ 3141.6–1 Initiation of competitive lease offering.

The Bureau of Land Management may, on its own motion, offer lands through competitive bidding. A request or expression(s) of interest in tract(s) for

competitive lease offerings shall be submitted in writing to the proper BLM office.

§ 3141.6–2 Publication of a notice of competitive lease offering.

Where a determination to offer lands for competitive leasing is made, a notice shall be published of the lease sale in the Federal Register and a newspaper of general circulation in the area in which the lands to be leased are located. The publication shall appear once in the Federal Register and at least once a week for 3 consecutive weeks in a newspaper, or for other such periods deemed necessary. The notice shall specify the time a place of sale, the manner in which the bids may be submitted; the description of the lands; the terms and conditions of the lease, including the royalty and rental rates; the amount of the minimum bid; and shall state that the terms and conditions of the leases are available for inspection and designate the proper BLM office where bid forms may be obtained.

§ 3141.6–3 Conduct of sales.

(a) Competitive sales shall be conducted by the submission of written sealed bids.

(b) Minimum bids shall be not less than $25 per acre..

(c) In the event that only 1 sealed bid is received and it is equal to or greater than the minimum bid, that bid shall be considered the highest bid.

(d) The authorized officer may reject any or all bids.

(e) The authorized officer may waive minor deficiencies in the bids or the lease sale advertisement.

(f) A bid deposit of one-fifth of the amount of the sealed bid shall be required and shall accompany the sealed bid. All bid deposits shall be in the form of either a certified check, money order, bank cashier's check or cash.

§ 3141.6–4 Qualifications.

Each bidder shall submit with the bid a statement over the bidder's signature with respect to compliance with subpart 3102 of this title.

§ 3141.6–5 Fair market value.

Only those bids which reflect the fair market value of the tract(s) as determined by the authorized officer shall be accepted; all other bids shall be rejected.

§ 3141.6–6 Rejection of bid.

If the high bid is rejected for failure by the successful bidder to execute the lease forms and pay the balance of the bonus bid, or otherwise to comply with the regulations of this subpart, the one-fifth bonus accompanying the bid shall be forfeited.

§ 3141.6–7 Consideration of next highest bid.

The Department reserves the right to accept the next highest bid if the highest bid is rejected. In no event shall an offer be made to the next bidder if the difference beween his/her bid and that of the successful bidder is greater than the one-fifth bonus forfeited by the rejected successful bidder.

§ 3141.7 Award of lease.

After determining the highest responsible qualified bidder, the authorized officer shall send 3 copies of the lease on a form approved by the Director, and any necessary stipulations, to the successful bidder. The successful bidder shall, not later than the 30th day after receipt of the lease, execute the lease, pay the balance of the bid and the first year's rental, and file a bond as required in subpart 3104 of this title. Failure to comply with this section shall result in rejection of the lease.

[FR Doc. 83–4231 Filed 2–17–83; 8:45 am]
BILLING CODE 4310–84–M

LIB

DEPARTMENT OF THE INTERIOR
Bureau of Land Management
43 CFR Part 3800
(Circular No. 2521)

Surface Management of Public Lands
Under U.S. Mining Laws

Under the authority of sections 2319 (30 U.S.C. 22) and 2478 (43 U.S.C. 1201) of the Revised Statutes and the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1701 et seq.). Part 3800, Title 43 of the Code of Federal Regulations is revised by adding a new Subpart 3809 as set forth below.

Part: 3800 - Mining Claims Under The General Mining Laws

General

Subpart 3809 - Surface Management

Sec.

3809.0-1 Purpose.
3809.0-2 Objectives.
3809.0-3 Authority
3809.0-5 Definitions.
3809.0-6 Policy.
3809.1 Operations
3809.1-1 Reclamation
3809.1-2 Casual use-negligible disturbance.
3809.1-3 Notice - disturbance of 5 acres or less.
3809.1-4 Plan of operations - when required.
3809.1-5 Filing and contents of plan of operations.
3809.1-6 Plan approval.
3809.1-7 Modification of plan.
3809.1-8 Existing operations.
3809.1-9 Bonding requirements.
3809.2 Prevention of unnecessary or undue degradation.
3809.2-1 Environmental assessment.
3809.2-2 Other requirements for environmental protection.
3809.3 General provisions.
3809.3-1 Applicability of State law.
3809.3-2 Noncompliance.
3809.3-3 Access.
3809.3-4 Fire prevention and control.
3809.3-5 Maintenance and public safety.
3809.3-6 Inspection.
3809.3-7 Period of non-operation.
3809.4 Appeals.
3809.5 Public availability of information.
3809.6 Special provisions relating to mining claims patented within the boundaries of the California Desert Conservation Area.

General

Subpart 3809 - Surface Management

§ 3809.0-1 Purpose.

The purpose of this subpart is to establish procedures to prevent unnecessary or undue degradation of federal lands which may result from operations authorized by the mining laws.

§ 3809.0-2 Objectives.

The objectives of this regulations are to:

(a) Provide for mineral entry, exploration, location, operations, and purchase pursuant to the mining laws in a manner that will not unduly hinder such activities but will assure that these activities are conducted in a manner that will prevent unnecessary or undue degradation and provide protection of nonmineral resources of the federal lands:

(b) Provide for reclamation of disturbed areas; and

(c) Coordinate, to the greatest extent possible, with appropriate State agencies, procedures for prevention of unnecessary or undue degradation with respect to mineral operations.

§ 3809.0-3 Authority.

(a) Section 2319 of the Revised Statutes (30 U.S.C. 22 et seq.) provides that exploration, location and purchase of valuable mineral deposits under the mining laws, on federal lands shall be "under regulations prescribed by law," and section 2478 of the Revised Statutes, as amended (43 U.S.C. 1201), provides that those regulations shall be issued by the Secretary.

(b) Sections 302, 303, 601, and 603 of the Federal and Policy and Management Act of 1976 (43 U.S.C. 1701 et seq.) require the Secretary to take any action, by regulation or otherwise, to prevent unnecessary or undue degradation of the federal lands, provide for enforcement of those regulations, and direct the Secretary to manage the California Desert Conservation Area under reasonable regulations which will protect the scenic, scientific, and environmental values against undue impairment, and to assure against pollution of streams and waters.

(c) The Act of July 23, 1955 (30 U.S.C. 612) provides that rights under mining claims located after July 23, 1955, shall prior to issuance of patent therefor be subject to the right of the United States to manage and dispose of the vegetative surface resources and to manage other

surface resources. The Act also provides that "Any mining claim hereafter located under the mining laws of the United States shall not be used, prior to issuance to patent therefor, for any purposes other than prospecting mining or processing operations and uses reasonably incident thereto.

(d) Section 9 of the Wild and Scenic Rivers Act (16 U.S.C. 1280) provides that regulations issued shall, among other things, provide safeguards against pollution of the rivers involved and unnecessary impairment of the scenery within the area designated for potential addition to, or an actual component of the national wild and scenic rivers system.

§ 3809.0-5 Definitions

As used in this subpart, the term:

(a) "Authorized officer" means any employee of the Bureau of Land Management to whom authority has been delegated to perform the duties described in this subpart.

(b) "Casual Use" means activities ordinarily resulting in only negligible disturbance of the federal lands and resources. For example, activities are generally considered "casual use" if they do not involve the use of mechanized earth moving equipment or explosives or do not involve the use of motorized vehicles in areas designated as closed to off-road vehicles as defined in subpart 8340 of this title.

(c) "Federal lands" means lands subject to the mining laws including but not limited to, the certain "public lands" defined in section 103 of the Federal Land Policy and Management Act of 1976. Federal lands does not include lands in the National Park System, National Forest System, nor Stockraising Homestead lands or lands where only the mineral interest is reserved to the United States or lands under Wilderness Review and administered by the Bureau of Land Management (these lands are subject to the 43 CFR Part 3802 regulations).

(d) "Mining claim" means any unpatented mining claim, millsite, or tunnel site located under the mining laws and those patented mining claims and millsites located in the California Desert Conservation Area which have been patented subsequent to the enactment of the Federal Land Policy and Management Act of October 21, 1976.

(e) "Mining Laws" mean the Lode Law of July 26, 1866, as amended (14 Stat. 251); the Placer Law of July 9, 1870, as amended (16 Stat. 217); and the Mining Law of May 10, 1872, as amended (17 Stat 91); and all laws supplementing and amending those laws including among others the Building Stone Act of August 4, 1892, as amended (27 Stat. 348); and the Saline Placer Act of January 31, 1901 (31 Stat. 745)

(f) "Operations" means all functions, work, facilities, and activities in connection with prospecting, discovery and assessment work, development, extraction, and processing of mineral extraction and processing of mineral deposits locatable under the mining laws and all other uses reasonably incident thereto, whether on a mining claim or not, including but not limited to the construction of roads, transmission lines, pipelines, and other means of access for support facilities across federal lands subject to these regulations.

(g) "Operator" means a person conducting or proposing to conduct operations.

(h) "Person" means any citizen of the United States or person who has declared the intention to become such and includes any individual partnership, corporation, association, or other legal entity.

(i) "Project area" means a single tract of land upon which an operator is, or will be, conducting operations. It may include one mining claim or a group of mining claims under one ownership on which operations are or will be conducted, as well as federal lands on which an operator is exploring or prospecting prior to locating a mining claim.

(j) "Reclamation" means taking such reasonable measures as will prevent unnecessary or undue degradation of the federal lands, including reshaping land disturbed by operations to an appropriate contour and, where necessary, revegetating disturbed areas so as to provide a diverse vegetative cover. Reclamation may not be required where the retention of a stable highwall or other mine workings is needed to preserve evidence of mineralization.

(k) "Unnecessary or undue degradation" means surface disturbance greater than what would normally result when an activity is being accomplished by a prudent operator in usual, customary, and proficient operations of similar character and taking into consideration the effects of operations on other resources and land uses, including those resources and uses outside the area of operations. Failure to initiate and complete reasonable mitigation measures, including reclamation of disturbed areas or creation of a nuisance may constitute unnecessary or undue degradation. Failure to comply with applicable environmental protection statutes and regulations thereunder will constitute unnecessary or

undue degradation. Where specific statutory authority requires the attainment of a stated level of protection or reclamation, such as in the California Desert Conservation Area, Wild and Scenic Rivers, areas designated as part of the National Wilderness System administered by the Bureau of Land Management and other such areas, that level of protection shall be met.

§ 3809.0-6 Policy.

Consistent with section 2 of the Mining and Mineral Policy Act of 1970 and section 102(a)(7)(8) and (12) of the Federal Land Policy and Management Act, it is the policy of the Department of the Interior to encourage the development of federal mineral resources and reclamation of disturbed lands. Under the mining laws a person has a statutory right, consistent with Departmental regulations, to go upon the open (unappropriated and unreserved) federal lands for the purpose of mineral prospecting, exploration, development, extraction and other uses reasonably incident thereto. This statutory right carries with it the responsibility to assure that operations include adequate and responsible measures to prevent unnecessary or undue degradation of the federal lands and to provide for reasonable reclamation.

§ 3809.1 Operations

§ 3809.1-1 Reclamation.

All operations, whether casual, under a notice, or by a plan of operations, shall be reclaimed as required in this title.

§ 3809.1-2 Casual use - negligible disturbance.

No notification to or approval by the authorized officer is required for casual use operations. However, casual use operations are subject to monitoring by the authorized office to ensure that unnecessary or undue degradation of federal lands will not occur.

§ 3809.1-3 Notice - disturbance of 5 acres or less.

(a) All operators on project areas whose operations, including access across federal lands to the project area, cause a cumulative surface disturbance of 5 acres or less during any calendar year shall notify the authorized officer in the District office of the Bureau of Land Management having jurisdiction over the land in which the claim(s) or project area is located. Prior to conducting additional operations under a subsequent notice, covering substantially the same ground, the operator shall have completed reclamation of operations which were conducted under any previous notice. Notification of such activities, by the operator, shall be made at least 15 calendar days before commencing operations under this subpart by a written notice or letter.

(b) Approval of a notice, by the authorized officer, is not required. Consultation with the authorized officer may be required under § 3809.1-3 (c)(3) of this title when the construction of access routes are involved. Notices properly filed under this section constitute authorization under part 8340 of this title (Off-Road Vehicles)

(c) The notice or letter shall include:

(1) Name and mailing address of the mining claimant and operator, if other than the claimant. Any change of operator or in the mailing address of the mining claimant or operator shall be reported promptly to the authorized officer.

(2) When applicable, the name of the mining claim(s) and serial number(s) assigned to the mining claim(s) recorded pursuant to subpart 3833 of this title on which disturbance will likely take place as a result of the operations;

(3) A statement describing the activities proposed and their location in sufficient detail to locate the activities on the ground, and giving the approximate date when operations will start. The statement shall include a description and location of access routes to be constructed and the type of equipment to be used in their construction. Access routes shall be planned for only the minimum width needed for operations and shall follow natural contours, where practicable, to minimize cut and fill. When the construction of access routes involves slopes which require cuts on the inside edge in excess of 3 feet, the operator may be required to consult with the authorized officer concerning the most appropriate location of the access route prior to commencing operations;

(4) A statement that reclamation of all areas disturbed will be completed to the standard described in § 3809.1-3(d) of this title and that reasonable measures will be taken to prevent unnecessary or undue degradation of the federal lands during operations.

(d) The following standards govern activities conducted under a notice:

(1) Access routes shall be planned for only the minimum width needed for operations and shall follow natural contour, where practicable to minimize cut and fill.

(2) All tailings, dumps, deleterious materials or substances, and other waste produced by the operations shall be disposed of so as to prevent unnecessary or undue degradation in accordance with applicable Federal and State Laws.

(3) At the earlist feasible time, the operator shall reclaim the area disturbed, except to the extent necessary to preserve evidence of mineralization, by taking reasonable measures to prevent or control on-site and off-site damage of the federal lands.

(4) Reclamation shall include, but shall not be limited to:

(i) Saving of topsoil for final application after reshaping of disturbed areas have been completed;
(ii) Measures to control erosion, landslides, and water runoff;
(iii) Measures to isolate, remove, or control toxic materials;
(iv) Reshaping the area disturbed, application of the topsoil, and revegetation of disturbed areas, where reasonably practicable; and
(v) Rehabilitation of fisheries and wildlife habitat.

(5) When reclamation of the disturbed area has been completed, except to the extent necessary to preserve evidence of mineralization, the authorized officer shall be notified so that an inspection of the area can be made.

(e) Operations conducted pursuant to this subpart are subject to monitoring by the authorized officer to ensure that operators are conducting operations in a manner which will not cause unnecessary or undue degradation.

(f) Failure of the operator to prevent undue or unnecessary degradation or to complete reclamation to the standards described in this subpart may cause the operator to be subject to a notice of noncompliance as described in § 3809.3-2 of this title.

§ 3809.1-4 Plan of operations - when required.

An approved plan of operations is required prior to commencing

(a) Operations which exceed the disturbance level (5 acres) described in §3809.1-3 of this title.

(b) Any operation, except casual use, in the following designated areas:

(1) Lands in the California Desert Conservation Area designated as "controlled" or "limited" use areas by the California Desert Conservation Area plan;
(2) Areas designated for potential addition to, or an actual component of the National Wild and Scenic Rivers system,
(3) Designated Areas of Critical Environmental Concern;
(4) Areas designated as part of the National Wilderness Preservation System and administered by the Bureau of Land Management;
(5) Areas designated as "closed" to off-road vehicle use as defined in subpart 8340 of this title.

(c) Plans properly filed and approved under this section constitute authorization under part 8340 of this title (Off-Road Vehicles).

§ 3809.1-5 Filing and contents of plan of operations.

(a) A plan of operations must be filed in the District Office of the Bureau of Land Management having jurisdiction over the federal lands in which the claim(s) or project area is located.

(b) No special form is required for filing a plan.

(1) The name and mailing address of the operator (and claimant if not the operator). Any change of operator or change in the mailing address shall be promptly reported to the authorized officer;

(2) A map, preferably a topographic map, or sketch showing existing and/or proposed routes of access, aircraft landing areas, or other means of access, and size of each area where surface disturbance will occur;

(3) When applicable, the name of the mining claim(s) and mining claim serial numbers assigned to the mining claim(s) recorded pursuant to subpart 3833 of title.

(4) Information sufficient to describe or identify the type of operations proposed, how they will be conducted and the period during which the proposed activity will take place;

(5) Measures to be taken to prevent unnecessary or undue degradation and measures to reclaim disturbed areas resulting from the proposed operations including the standards listed in §3809.1-3(d) of this title. Where an operator advises the authorized officer that he/she does not have the necessary technical resources to develop such measures the authorized officer will assist the operator in developing such measures. If an operator submits reclamation measures, the authorized officer will ensure that the operator's plan is sufficient to prevent unnecessary or undue degradation. All reclamation measures developed by the operator, or by the authorized officer in conjunction with the operator, shall become a part of the plan of operations.

(6) Measures to be taken during extended periods of nonoperation to maintain the area in a safe and clean manner and to reclaim the land to avoid erosion and other adverse impacts. If not filed at the time of plan submittal, this information shall be filed with the authorized officer whenever the operator anticipated a period of nonoperation.

§ 3809.1-6 Plan approval

(a) A proposed plan of operations shall be submitted to the authorized officer, who shall promptly acknowledge receipt thereof to the operator. The authorized officer shall, within 30 days of such receipt, analyze the proposal in the context of the requirement to prevent unnecessary or undue degradation and provide for reasonable reclamation and shall notify the operator.

(1) That the plan is approved; or

(2) Of any changes in or additions to the plan necessary to meet the requirements of these regulations; or

(3) That the plan is being reviewed, but that a specified amount of time not to exceed an additional 60 days, is necessary to complete the review, setting forth the circumstances which justify additional time for review. However, days during which the area of operations is inaccessible for inspection shall not be counted when computing the 60 day period; or

(4) That the plan cannot be approved until 30 days after a final environmental statement has been prepared and filed with the Environmental Protection Agency; or

(5) That the plan cannot be approved until the authorized officer has complied with section 106 of the National Historic Preservation Act or section 7 of the Endangered Species Act.

(b) The authorized officer shall consult with the appropriate official of the bureau or agency having surface management responsibilities where such responsibility is not exercised by the Bureau of Land Management. Prior to plan approval the authorized officer shall obtain the concurrence of such appropriate official to the terms and conditions that may be needed to prevent unnecessary or undue degradation.

(c) The authorized officer shall undertake an appropriate level of cultural resource inventory of the area to be disturbed. The inventory shall be completed within the time allowed by these regulations for approval of the plan (30 days). The operator is not required to do the inventory but may hire an archaeologist approved by the Bureau of Land Management in order to complete the inventory more expeditiously. The responsibility for and cost of salvage of cultural resources discovered during the inventory shall be the Federal Government's. The responsibility of avoiding adverse impacts on those cultural resources discovered during the inventory shall be the operator's.

(d) Pending final approval of the plan, the authorized officer shall approve any operations that may be necessary for timely compliance with requirements of Federal and State laws, subject to any terms and conditions that may be needed to prevent unnecessary or undue degradation.

(e) In the event of a change of operators involving an approved plan of operations, the new operator shall satisfy the requirements of § 3809.1-9 of this title as it related to bonding.

§ 3809.1-7 Modification of plan.

(a) At any time during operations under an approved plan, the operator on his/her own initiative may modify the plan or the authorized officer may request the operator to do so.

(b) A significant modification of an approved plan must be reviewed and approved by the authorized officer in the same manner as the initial plan.

(c)(1) If, when requested to do so by the authorized officer, the operator does not furnish a proposed modification within a reasonable time, usually 30 days, the authorized officer may recommend to the State Director that the operator be required to submit a proposed modification of the plan. The recommendation of the authorized officer shall be accompanied by a statement setting forth the facts and the reasons for the recommendations.

(2) In acting upon such recommendations the State Director shall determine, within 30 days whether:

(i) All reasonable measures were taken by the authorized officer at the time the plan was approved to ensure that the proposed operations would not cause unnecessary or undue degradation of the federal land;

(ii) The disturbance from the operations of the plan as approved or from unforeseen circumstances is or may become of such significance that modification of the plan is essential in order to prevent unnecessary or undue degradation; and

(iii) The disturbance can be minimized using reasonable means.

(3) Once the matter has been sent to the State Director, an operator is not required to submit a proposed modification of an approved plan until a determination is made by the State Director. Where the State Director determines that a plan shall be modified, the operator shall timely submit a modified plan to the authorized officer for review and approval.

(4) Operations may continue in accordance with the approved plan until a modified plan is approved, unless the State Director determines that the operations are causing unnecessary or undue degradation to the land. The State Director shall advise the operator of those reasonable measures needed to avoid such degradation and the operator shall immediately take all necessary steps to implement those measures within a reasonable period established by the State Director.

§ 3809.1-8 Existing operations.

(a) Persons conducting operations on the effective date of these regulations, who would be required to submit a notice under § 3809.1-3 or a plan of operations under § 3809.1-4 of this title may continue operations but shall within:

(1) 30 days submit a notice with required information outlined in § 3809.1-3 of this title for operations where 5 acres or less will be disturbed during a calendar year or

(2) 120 days submit a plan in those areas identified in § 3809.1-4 of this title. Upon a showing of good cause, the authorized officer may grant an extension of time, not to exceed an additional 180 days, to submit a plan.

(b) Operations may continue according to the submitted plan during its review. If the authorized oficer determines that operations are causing unnecessary or undue degradation of the federal lands involved, the authorized officer shall advise the operator of those reasonable measures needed to avoid such degradation, and the operator shall take all necessary steps to implement those measures within a reasonable time recommended by the authorized officer. During the period of an appeal, if any, operations may continue without change, subject to other applicable Federal and State laws.

(c) Upon approval of a plan by the authorized officer, operations shall be conducted in accordance with the approval plan.

§ 3809.1-9 Bonding requirements.

(a) No bond shall be required for operations that constitute casual use (§ 3809.1-2) or that are conducted under a notice (§ 3809.1-3 of this title).

(b) Any operator who conducts operations under an approved plan of operations as described in § 3809.1-5 of this title may, at the discretion of the authorized officer, be required to furnish a bond in an amount specified by the authorized officer. The authorized officer may determine not to require a bond in circumstances where operations would cause only minimal disturbance to the land. In determining the amount of the bond, the authorized officer shall consider the estimated cost of reasonable stabilization and reclamation of areas disturbed. In lieu of the submission of a separate bond, the authorized officer may accept evidence of an existing bond pursuant to State law or regulations for the same area covered by the plan of operations, upon a determination that the coverage would be equivalent to that provided in this section.

(c) In lieu of a bond, the operator may deposit and maintain in a Federal depository account of the United States Treasury, as directed by the authorized officer, cash in an amount equal to the required dollar amount of the bond or negotiable securities of the United States having a market value at the time of deposit of not less than the required dollar amount of the bond.

(d) In place of the individual bond on each separate operation, a blanket bond covering statewide or nationwide operations may be furnished at the option of the operator, if the terms and conditions as determined by the authorized officer, are sufficient to comply with these regulations.

(e) In the event that an approved plan is modified in accordance with § 3809.1-7 of this title, the authorized officer shall review the initial bond for adequacy and, if necessary, adjust the amount of the bond to conform to the plan as modified.

(f) When all or any portion of the reclamation has been completed in accordance with the approved plan, the operator may notify the authorized officer that such reclamation has occurred and that he/she seeks a reduction in bond or Bureau approval of the adequacy of the reclamation, or both. Upon any such notification, the authorized officer shall promptly inspect the reclaimed area with the operator. The authorized officer shall then notify the operator, in writing, whether the reclamation is acceptable. When the authorized officer has accepted as completed any portion of the reclamation, the authorized officer shall authorize that the bond be reduced proportionally to cover the remaining reclamation to be accomplished.

(g) When a mining claim is patented, the authorized officer shall release the operator from that portion of the performance bond which applies to operations within the boundaries of the patented land. The authorized officer shall release the operator from the remainder of the performance bond including the portion covering approved means of access outside the boundaries of the mining claim, when the operator has completed acceptable reclamation. However, existing access to patented mining claims, if across Federal lands shall continue to be regulated under the approved plan. The provisions of this subsection do not apply to patents issued on mining claims within the boundaries of the California Desert Conservation Area (See § 3809.6 of this title).

§ 3809.2 Prevention of unnecessary or undue degradation.

§ 3809.2-1 Environmental assessment.

(a) When an operator files a plan of operations or a significant modification which encompasses land not previously covered by an approved plan, the authorized officer shall make an environmental assessment or a supplement thereto to identify the impacts of the proposed operations on the lands and to determine whether an environmental impact statement is required.

(b) In conjunction with the operator, the authorized officer shall use the environmental assessment to determine the adequacy of mitigating measures and reclamation procedures included in the plan to insure the prevention of unnecessary or undue degradation of the land. If an operator advises he/she is unable to prepare mitigating measures, the authorized officer, in conjunction with the operator, shall use the environmental assessment as a basis for assisting the operator in developing such measures.

(c) If, as a result of the environmental assessment, the authorized officer determines that there is "substantial public interest" in the plan, the authorized officer shall notify the operator, in writing, that an additional period of time, not to exceed the additional 60 days provided for approval f a plan in § 3809.1-6 of this title, is required to consider public comments on the environmental assessment.

§ 3809.2-2 Other requirements for environmental protection.

All operations, including casual use and operations under either a notice (§ 3809.1-3) or a plan of operations (§ 3809.1-4 of this title) shall be conducted to prevent unnecessary or undue degradation of the federal lands and shall comply with all pertinent Federal and State laws, including but not limited to the following:

(a) Air Quality. All operators shall comply with applicable Federal and State air quality standards, including the Clean Air Act (42 U.S.C. 1857 et seq.).

(b) Water Quality. All operators shall comply with applicable Federal and State water quality standards, including the Federal Water Pollution Control Act, as amended (30 U.S.C. 1151 et seq.).

(c) Solid Wastes. All operators shall comply with applicable Federal and State standards for the disposal and treatment of solid wastes, including regulations issued pursuant to the Solid Waste Disposal Act as amended by the Resource Conservation and Recovery Act (42 U.S.C. 6901 et seq.). All

garbage, refuse or waste shall either be removed from the affected lands or disposal of or treated to minimize, so far as is practicable, its impact on the lands.

(d) Fisheries, Wildlife and Plant Habitat. The operator shall take such action as may be needed to prevent adverse impacts to threatened or endangered species, and their habitat which may be affected by operations.

(e) Cultural and Paleontological Resourcess.

(1) Operators shall not knowingly disturb, alter, injure, or destroy any scientifically important paleontological remains or any historical or archaeological site, structure, building or object on Federal lands.

(2) Operators shall immediately bring to the attention of the authorized officer any cultural and/or paleontological resources that might be altered or destroyed on federal lands by his/her operations, and shall leave such discovery intact until told to proceed by the authorized officer. The authorized officer shall evaluate the discoveries brought to his/her attention, take action to protect or remove the resource, and allow operations to proceed within 10 working days, after notification to the authorized officer of such discovery.

(3) The Federal Government shall have the responsibility and bear the cost of investigations and salvage of cultural and paleontology values discovered after a plan of operations has been approved, or where a plan is not involved.

(f) Protection of survey monuments. To the extent practicable, all operators shall protect all survey monuments, witness corners, reference monuments, bearing trees and line trees against unnecessary or undue destruction, obliteration or damage. If, in the course of operations, any monuments, corners, or accessories are destroyed, obliterated or damaged by such operations, the operator shall immediately report the matter to the authorized officer. The authorized officer shall prescribe, in writing the requirements for the restoration or reestablishment of monuments, corners, bearing and line trees.

§ 3809.3 General provisions

§ 3809.3-1 Applicability of State law.

(a) Nothing in this subpart shall be construed to effect a preemption of State laws and regulations relating to the conduct of operations or reclamation on federal lands under the mining laws.

(b) After the publication date of these regulations the Director, Bureau of Land Managment, shall conduct a review of State laws and regulations in effect or due to come into effect, relating to unnecessary or undue degradation of lands disturbed by exploration for or mining of minerals locatable under the mining laws.

(c) The Director may consult with appropriate representatives of each State to formulate and enter into agreements to provide for a joint Federal State program for administration and enforcement. The purpose of such agreement is to prevent unnecessary or undue degradation of the federal lands from operations which are conducted under the mining laws, to prevent unnecessary administrative delay and to avoid duplication of administration and enforcement of laws. Such agreements may, whenever possible, provide for State administration and enforcement of such programs.

§ 3809.3-2 Noncompliance.

(a) Failure of an operator to file a notice under § 3809.1-3 of this title or a plan of operations under § 3809.1-4 of this title will subject the operator, at the discretion of the authorized officer, to being served a notice of non-compliance or enjoined from the continuation of such operations by a court order until such time as a notice or plan is filed with the authorized officer. The operator shall also be responsible to reclaim operations conducted without an approved plan of operations or prior to the filing of a required notice.

(b) Failure to reclaim areas disturbed by operations under § 3809.1-3 of this title is a violation of these regulations.

(1) Where an operator is conducting operations covered by § 3809.1-3 (notice) of this title and fails to comply with the provisions of that section or properly conduct reclamation according to standards set forth in 3809.1-3(d) of this title, a notice of noncompliance shall be served by delivery in person to the operator or his/her authorized agent, or by certified mail addressed to his/her address of record.

(2) Operators conducting operations under an approved plan of operations who fails to follow the approved plan of operations may be subject to a notice of noncompliance. A notice of noncompliance shall be served in the same manner as described in § 3809.3-2(b)(1) above.

(c) All operators who conduct operations under a notice pursuant to § 3809.1-3 and a plan pursuant to § 3809.1-4 of this title on federal lands without taking the actions specified in a notice of noncompliance within the time specified therein may be enjoined by an appropriate court order from continuing such operations and be liable for damages for such unlawful acts.

(d) A notice of noncompliance shall specify in what respects the operator is failing or has failed to comply with the requirements of applicable regulations, and shall specify the actions which are in violation of the regulations and the actions which shall be taken to correct the noncompliance and the time, not to exceed 30 days within which corrective action shall be started.

(e) Failure of an operator to take necessary actions on a notice of noncompliance, may constitute justification for requiring the submission of a plan of operations under § 3809.1-5 of this title, and mandatory bonding for subsequent operations which would otherwise be conducted pursuant to a notice under § 3809.1-3 of this title.

§ 3809.3-3 Access.

(a) An operator is entitled to access to his operations consistent with provisions of the mining laws.

(b) Where a notice or a plan of operations is required, it shall specify the location of access routes for operations and other conditions necessary to prevent unnecessary or undue degradation. The authorized officer may require the operator to use existing roads to minimize the number of access routes, and, if practicable, to construct access roads within a designated transportation or utility corridor. When commercial hauling is involved and the use of an existing road is required, the authorized officer may require the operator to make appropriate arrangements for use and maintenance.

§ 3809.3-4 Fire prevention and control.

The operator shall comply with all applicable Federal and State fire laws and regulations, and shall take all reasonable measures to prevent and suppress fires in the area of operations.

§ 3809.3-5 Maintenance and public safety.

During all operations, the operator shall maintain his structures, equipment and other facilities in a safe and orderly manner. Hazardous sites or conditions resulting from operations shall be marked by signs, fenced, or otherwise identified to alert the public in accordance with applicable Federal and State laws and regulations.

§ 3809.3-6 Inspection.

The authorized officer may periodically inspect operations to determine if the operator is complying with these regulations. The operator shall permit the authorized officer access for this purpose.

§ 3809.3-7 Periods of non-operation.

All operators shall maintain the site, structures and other facilities of the operations in a safe and clean condition during any non-operating periods. All operators may be required, after an extended period of non-operation for other than seasonal operations, to remove all structures, equipment and other facilities and reclaim the site of operations, unless he/she received permission, in writing, from the authorized officer to do otherwise.

§ 3809.4 Appeals

(a) Any operator adversely affected by a decision of the authorized officer made pursuant to the provisions of this subpart shall have a right of appeal to the State Director, and thereafter to the Board of Land Appeals, Office of Hearings and Appeals, pursuant to Part 4 of this title, if the State Director's decision is adverse to the appellant.

(b) No appeal shall be considered unless it is filed, in writing, in the office of the authorized officer who made the decision from which an appeal is being taken, within 30 days after the date of receipt of the decision. A decision of the authorized officer from which an appeal is taken to the State Director shall be effective during the pendency of an appeal. A request for a stay may accompany the appeal.

(c) The appeal to the State Director shall contain:

(1) The name and mailing address of the appellant.

(2) When applicable, the name of the mining claim(s) and serial number(s) assigned to the mining claims recorded pursuant to subpart 3833 of this title which are subject to the appeal.

(3) A statement of the reasons for the appeal and any arguments the appellant wishes to present which would justify reversal or modification of the decision.

(d) The State Director shall promptly render a decision on the appeal. The decision shall be in writing and shall set forth the reasons for the decision. The decision shall be sent to the appellant by certified mail, return receipt requested.

(e) The decision of the State Director, when adverse to the appellant, may be appealed to the Board of Land Appeals, Office of Hearings and Appeals, pursuant to Part 4 of this title.

(f) Any party, other than the operator, aggrieved by a decision of the authorized officer shall utilize the appeals procedures in Part 4 of this title. The filing of such an appeal shall not stop the authorized officer's decision from being effective.

(g) Neither the decision of the authorized officer nor the State Director shall be construed as final agency action for the purpose of judicial review of that decision.

§ 3809.5 Public availability of information.

(a) Information and data submitted and specifically identified by the operator as containing trade secrets or confidential or privileged commercial or financial information shall not be available for public examination. Other information and data submitted by the operator shall be available for examination by the public at the office of the authorized officer in accordance with the provisions of the Freedom of Information Act.

(b) The determination concerning specific information which may be withheld from public examination shall be made in accordance with the rules in 43 CFR Part 2.

§ 3809.6 Special provisions relating to mining claims patented within the boundaries of the California Desert Conservation Area.

In accordance with section 601(f) of the Federal Land Policy and Management Act of October 21, 1976, all patents issued on mining claims located within the boundaries of the California Desert Conservation Area after the enactment of the Federal Land Policy and Management Act shall be subject to the regulations in this subpart, including the continuation of a plan of operations and of bonding with respect to the land covered by the patent.

Garrey E. Carruthers,
Assistant Secretary of the Interior.
February 10, 1983.

Effective April 1, 1983.

PA, PS, ML #2521

The data submitted in the petition and other relevant material have been evaluated and discussed in the notice of proposed rulemaking. The pesticide is considered useful for the purpose for which the tolerance is sought. It is concluded that the tolerance would protect the public health and is established as set forth below.

Any person adversely affected by this regulation may, within 30 days after publication of this notice in the Federal Register, file written objections with the Hearing Clerk, at the address given above. Such objections should specify the provisions of the regulation deemed objectionable and the grounds for the objections. If a hearing is requested, the objections must state the issues for the hearing and the grounds for the objections. A hearing will be granted if the objections are supported by grounds legally sufficient to justify the relief sought.

The Office of Management and Budget has exempted this rule from the requirements of section 3 of Executive Order 12291.

(Sec. 408(e), 68 Stat. 514 (21 U.S.C. 346(a)(e)))

List of Subjects in 40 CFR Part 180

Administrative practice and procedure, Agricultural commodities, Pesticides and pests.

Dated: February 17, 1983.

Edwin L. Johnson,

Director, Office of Pesticide Programs.

PART 180—[AMENDED]

Therefore, 40 CFR 180.379 is amended by adding and alphabetically inserting the raw agricultural commodity artichokes to read as follows:

§ 180.379 Cyano(3-phenoxyphenyl)methyl 4-chloro-alpha-(1-methylethyl) benzeneacetate; tolerances for residues.

* * * * *

Commodities	Parts per million
* * * * *	
Artichokes	0.2
* * * * *	

[FR Doc. 83-5252 Filed 3-1-83; 8:45 am]

BILLING CODE 6560-50-M

41 CFR Part 15-1

[OA-FRL 2312-8]

General

AGENCY: Environmental Protection Agency.

ACTION: Final rule.

SUMMARY: The Environmental Protection Agency (EPA) is revising its procurement regulation relating to debarred, suspended and ineligible bidders. The intended effect of this revision is to eliminate Agency regulations duplicating intended Federal Procurement Regulations.

EFFECTIVE DATE: March 2, 1983.

FOR FURTHER INFORMATION CONTACT: Lawrence E. Sawler, Procurement and Contracts Management Division (PM-214), Environmental Protection Agency, 401 M Street, SW., Washington, D.C. 20460, (202/382-5182).

SUPPLEMENTARY INFORMATION: (a) The Office of Federal Procurement Policy issued a Policy Letter on June 24, 1982, on Government-wide Debarment, Suspension and Ineligibility.

(b) This Policy Letter sets forth in Appendix A the Government-wide policies for debarment and suspension of Government contractors and provides for a consolidated listing of debarments and suspensions. In addition, it provides for a listing of contractors that have been declared ineligible pursuant to statutory authority.

(c) Amendments to the Federal Procurement Regulations will be made in order to implement this policy.

(d) The EPA has determined that its current procurement regulations contain duplications and conflicts with the Policy Letter.

(e) This rule deletes those policies and procedures in the EPA procurement regulation pertaining to debarred, suspended and ineligible bidders.

(f) The Agency has not invited public comments on this rule as its purpose is to reduce the proliferation of regulations and administrative burdens associated with debarred, suspended and ineligible bidders.

(g) The Office of Management and Budget (OMB) has exempted this regulation from the requirements of Executive Order 12291 pursuant to section 8(b) of that Order.

List of Subjects in 41 CFR Part 15-1

Conflict of interest, Government procurement, Environmental protection.

PART 15-1—[AMENDED]

For the reasons set out in the preamble, 41 CFR Part 15-1 is amended as follows:

1. The table of contents for Part 15-1 is amended by removing the contents of Subpart 15-1.6—Debarred, Suspended and Ineligible Bidders.

Subpart 15-1.6—[Removed]

2. Subpart 15-1.6 is removed in its entirety.

Dated: December 28, 1982.

John P. Horton,

Assistant Administrator for Administration.

[FR Doc. 83-5253 Filed 3-1-83; 8:45 am]

BILLING CODE 6560-50-M

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[Circular No. 2521]

43 CFR Part 3800

Surface Management of Unpatented Mining Claims Located on the Public Lands; Amendments Affecting Special Category Lands

AGENCY: Bureau of Land Management, Interior.

ACTION: Final rulemaking.

SUMMARY: This final rulemaking will maintain a special protection for special category lands contained within the public lands while lessening the burden on mining claimants by removing the requirement for a plan of operation for certain of those areas.

EFFECTIVE DATE: April 1, 1983.

ADDRESS: Any suggestions or inquiries should be sent to: Director (520), Bureau of Land Management, 1800 C Street NW., Washington, D.C. 20240.

FOR FURTHER INFORMATION CONTACT: Eugene Carlat, (202) 343-8537.

SUPPLEMENTARY INFORMATION: The proposed rulemaking amending the existing regulations on Surface Management of Unpatented Mining Claims Located on the Public Lands was published in the Federal Register on March 22, 1982 (47 FR 12197). Comments were invited for a 45-day period during which 68 comments were received. The comments came from the following sources: 51 individuals; 12 associations, including one that represented 6 different groups; 2 companies identified with the mining industry; 2 Federal agencies; and one local government. The comments have been carefully reviewed as part of the decisionmaking process on this final rulemaking.

In summary, the final rulemaking retains the mandatory requirement for filing a plan of operations for mining operations, irrespective of the areal extent of the surface disturbance, located in areas designated for controlled or limited use in the California Desert Conservation Area;

existing and potential components of the Wild and Scenic Rivers System; Areas of Critical Environmental Concern; components of the National Wilderness Preservation System; and areas closed to off-road vehicle use. It removes the requirement for filing a plan of operations for disturbance of five acres or less on lands designated for moderate use and intensive use by the California Desert Conservation Area plan; in areas where off-road vehicle use is limited; and for lands encompassed in valid existing right areas within lands withdrawn from operation of the mining laws. In its place, as is the case for all other public lands, operations that disturb more than five acres must have an approved plan before starting operations and notices must be filed for operations that would disturb 5 acres or less 15 days prior to commencement of operations.

The final rulemaking also provides that a properly filed notice affecting 5 acres or less and any plans of operations properly filed and approved, will constitute authorization for the use of off-road vehicles, avoiding the need to acquire separate authorization for such use.

In general, the comments suggested that the changes made by the proposed rulemaking may not have struck a reasonable balance between efforts to reduce the administrative burden on mining claimants, and the need to prevent unnecessary and undue degradation on special category lands. Some comments applauded the changes made by the proposed rulemaking, with a few of those comments requesting only minor changes.

One of the comments stated the view that a regulatory impact analysis should have been completed on this rulemaking. An environmental assessment was completed on the proposed rulemaking. That assessment showed that the proposed changes would have some impact on the human environment, but that impact would not be significant. Operations conducted under a notice must include reclamation of surface disturbance. Operators must not knowingly disturb Federal property, cultural resources, fossils or threatened or endangered species. Inspection of reclaimed operations by Bureau of Land Management personnel is mandatory under the regulations. The protection afforded by a notice and the requirement for a plan would, in the judgment of the Bureau, provide public lands comprehensive protection, including those no longer subject to mandatory plans of operations. The changes made by the final rulemaking further enhance this view by the retention of the requirement for the filing of a plan of operations on those special category lands that have legislative mandates regarding their significance. Therefore, no regulatory impact analysis has been prepared on this rulemaking.

Comments on the specific sections of the proposed rulemaking will be discussed in connection with the specific section to which they relate.

Section 3809.1–3

The proposed rulemaking would have deleted the mandatory requirement for the filing of a plan of operations for operations located within special category lands. The majority of the comments objected to deleting the requirement for the filing of a plan of operations on such lands because: (1) The lands are sensitive and highly susceptible to unnecessary or undue degradation; (2) an operator, through ignorance or intent, could cause unnecessary or undue degradation; and (3) a perception that the Bureau of Land Management's limited manpower and general unwillingness to adopt tough enforcement measures will not act as a deterrent. In response to those comments, and as a result of the legislative mandates relating to special category lands, the final rulemaking continues to require the filing of a plan of operations for any operation, other than casual use, in designated special category lands; however, the number of special category areas have been reduced in the final rulemaking. Those categories that have been eliminated (California Desert Conservation Area lands classed as moderate or intensive use areas, lands designated for "limited" off-road vehicle use, and areas of valid existing rights within lands withdrawn from the operation of the mining laws), are adequately protected under notice requirements and do not require the additional scrutiny of plans of operations for disturbance to five acres or less.

Paragraph (a) is amended by the final rulemaking to clarify when operations conducted under a notice will not be allowed. When proposed operations overlap or are contiguous to unreclaimed project areas that are a result of operations conducted under a previous notice, the operator is required to file a plan of operations. This requirement will not apply to those cases where non-contiguous project areas disturb five acres or less and are covered by individual notices.

In order to have paragraph (b) of § 3809.1–3 conform to the requirements of the existing regulations, the final rulemaking adds language that states that a properly filed notice of disturbance of five acres or less will constitute authorization for use of off-road vehicles in connection with any operations. The requirement to reclaim lands disturbed in furtherance of mining operations conducted under a notice, plus the mandatory inspection by the authorized officer reduce the amount of paperwork that an operator needs to file. This is a continuance of the clear intent of the existing regulations when they were initially promulgated in 1980.

A number of comments objected to the change made by the proposed rulemaking in paragraph (f) § 3809.1–3 which requires the authorized officer to issue a notice of noncompliance in connection with activities that fail to comply with the existing regulations as they relate to the prevention of undue or unnecessary degradation or completion of reclamation. The final rulemaking gives the authorized officer discretion on the issuance of the notice of noncompliance. This change makes the regulations less burdensome and makes them a better management tool.

Section 3809.1–4

Several of the comments objected to eliminating the mandatory filing of a plan of operations within special category lands as being directly counter to the intent of Congress on the treatment of designated wilderness areas, wild and scenic river areas, designated Areas of Critical Environmental Concern and areas closed to off-road vehicle use. After a review of the legislative mandate relating to special category lands, the final rulemaking retains the requirement for a plan of operations for all of the special category lands described above, as well as for areas designated as controlled or limited use areas by the California Desert Conservation Area plan. Eliminated from such category are lands classified by the California Desert Conservation Area plan as moderate or intensive use areas, lands designated for "limited" off-road vehicle and areas of valid existing rights within withdrawn lands. Those lands under wilderness review will still be subject to the provisions of 43 CFR Subpart 3802. This change will reduce the administrative burden on the public and the Bureau of Land Management, while ensuring adequate protection for special category lands. The change made by the final rulemaking will affect only a small number of mining operations which will be more than offset by the protection afforded lands that have characteristics that should be protected.

A new paragraph (e) has been added to § 3809.1–4 by the final rulemaking that makes it clear that the filing and approval of a plan of operations constitutes authorization for use of an off-road vehicle under the provision of 43 CFR PArt 8340. This change is in keeping with the intent of the existing regulations and reduces the administrative burden on the using public.

Section 3809.1–9

A few comments objected to the removal by the proposed rulemaking of the provision for a nationwide bond in paragraph (d) of § 3809.1–9. After a careful review of the comments and the capabilities of the Bureau of Land Management to administer a nationwide bonding system for unpatented mining claims, the final rulemaking retains the nationwide bonding system.

Editorial changes and technical corrections have been made as needed.

The principal author of this final rulemaking is Eugene Carlat, Division of Minerals and Geothermal Resources, assisted by the staff of the Office of Legislation and Regulatory Management, Bureau of Land Management.

The Department of the Interior has determined that this document is not a major rule under Executive Order 12291 and will not have a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 et seq.).

The changes made by this final rulemaking have a uniform impact on all entities having unpatented mining claims located on the public lands. The changes should, in fact, reduce the regulatory burden on all those affected by the requirements of 43 CFR Subpart 3809.

The information collection requirements contained in 43 CFR Subpart 3809 have been approved by the Office of Management and Budget under 44 U.S.C. 3507 and assigned clearance number 1004–0104.

List of Subjects for 43 CFR Part 3800

Administrative practice and procedure, Environmental protection, Public lands—mineral resources, Wilderness areas.

Under the authority of section 2319 (30 U.S.C. 22) and 2478 (43 U.S.C. 1201) of the Revised Statutes and the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1701 et seq.), Part 3800, Group 3800, Subchapter C, Chapter II of Title 43 of the Code of Federal Regulations is amended as set forth below.

Garrey E. Carruthers,

Assistant Secretary of the Interior.

February 10, 1983.

PART 3800—LANDS AND MINERALS SUBJECT TO LOCATION

Subpart 3809—Surface Management

Note.—The information collection requirements contained in this subpart have been approved by the Office of Management and Budget under 44 U.S.C. 3507 and assigned clearance number 1004–0104. This information is needed to permit the authorized officer to determine if a plan of operations is needed to protect the public lands and their resources and to determine if the plan of operations, if one is required, is adequate. The obligation to respond is required to obtain a benefit.

§ 3809.0–5 [Amended]

1. Section 3809.0–5 is amended by:

a. Amending paragraph (b) by removing the words "or limited"; and

b. Amending paragraph (k) by inserting in the last sentence of the paragraph immediately after the phrase "Wild and Scenic Rivers," the phrase "areas designated as part of the National Wilderness System administered by the Bureau of Land Management".

§ 3809.1–3 [Amended]

2. Section 3809.1–3 is amended by:

a. Amending paragraph (a) by inserting in the second sentence after the phrase "a subsequent notice" the phrase "covering substantially the same ground";

b. Amending paragraph (b) by adding at the end of the paragraph the sentence "Notices properly filed under this section constitute authorization under part 8340 of this title (Off-Road Vehicles)."; and

c. Revising paragraph (f) to read:

(f) Failure of the operator to prevent undue or unnecessary degradation or to complete reclamation to the standards described in this subpart may cause the operator to be subject to a notice of noncompliance as described in § 3809.3–2 of this title.

§ 3809.1–4 [Amended]

3. Section 3809.1–4 is amended by:

a. Revising paragraph (b)(1) to read:

* * * * *

(b) * * *

"(1) Lands in the California Desert Conservation Area designated as 'controlled' or 'limited' use areas by the California Desert Conservation Area plan;";

b. Removing paragraph (b)(5) in its entirety; and

c. Renumbering paragraph (b)(6) as paragraph (b)(5) and amending it by removing the phrase "or 'limited' ".

4. Section 3809.1–4 is amended by adding a new paragraph (c) to read:

* * * * *

"(c) Plans properly filed and approved under this section constitute authorization under part 8340 of this title (Off-Road Vehicles)."

§ 3809.2–1 [Amended]

5. Section 3809.2–1(c) is amended by removing the phrase "is §3809.1–6(a)" and replacing it with the phrase "in § 3809.1–6".

§ 3809.2–2 [Amended]

6. Section 3809.2–2(e)(2) is amended by adding at the end the phrase "after notification to the authorized officer of such discovery."

§ 3809.4 [Amended]

7. Section 3809.4(b) is amended by inserting after the phrase "within 30 days after the date of" the phrase "receipt of".

[FR Doc. 83–5259 Filed 3–1–83; 8:45 am]

BILLING CODE 4310–84–M

INTERSTATE COMMERCE COMMISSION

49 CFR Part 1033

Various Railroads Authorized To Use Tracks and/or Facilities of the Chicago, Rock Island and Pacific Railroad Co., Debtor (William M. Gibbons, Trustee)

AGENCY: Interstate Commerce Commission.

ACTION: Forty-Eighth Revised Service Order No. 1473.

SUMMARY: Pursuant to Section 122 of the Rock Island Transition and Employee Assistance Act, Public Law 96–254, this order authorizes various railroads to provide interim service over the Chicago, Rock Island and Pacific Railroad Company, Debtor (William M Gibbons, Trustee), and to use such tracks and facilities as are necessary for operations. This order permits carriers to continue to provide service to shippers which would otherwise be deprived of essential rail transportation.

EFFECTIVE DATE: 12:01 a.m., March 1, 1983, and continuing in effect until 11:59 p.m., July 31, 1983, unless otherwise modified, amended or vacated by order of this Commission.

C1B

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

43 CFR Part 4700

[Circular No. 2522]

Wild Free-Roaming Horse and Burro Protection, Management and Control; Amendment To Provide a Fee for Adoption

Under the authority of the Act of December 15, 1971, as amended (16 U.S.C. 1331–1340), the Act of June 28, 1934 (43 U.S.C. 315–315r) and the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1701 et seq.), Part 4700, Group 4700, Subchapter D, Chapter II of Title 43 of the Code of Federal Regulation is amended as set forth below.

PART 4700—[AMENDED]

1. Part 4700 is amended by adding immediately after the heading the note:

Note.—The information collection requirements of 43 CFR Part 4700 have been approved by the Office of Management and Budget under 44 U.S.C. 3501 et seq. and assigned clearance numbers 1004–0042 and 1004–0046. The information will be used to determine whether applicants for adoption and taking title to wild free-roaming horses and burros should be given custody of or title to such animals. The obligation to respond is required to obtain a benefit.

2. Section 4740.4–2 is renumbered § 4740.4–3 and is amended by revising paragraph (d) to read:

§ 4740.4–3 [Amended]

* * * * *

(d) Before wild free-roaming horses or burros are transferred, the applicant shall:

(1) Pay a custodial fee of $125 for each horse and $75 for each burro, except there shall be no custodial fee for an unweaned offspring under 6 months of age accompanying its mother, plus any transportation costs incurred for the transportation of the animals to the point of pickup; and

(2) Sign a cooperative agreement that incorporates provisions for custodial maintenance, including, but not limited to, provisions for proper maintenance of the animals and protection from inhumane treatment and commercial exploitation.

3. A new § 4740.4–2 is added to read:

§ 4740.4–2 Applications.

Any qualified person, organization or government agency wishing to take custody of a wild free-roaming horse or burro shall file an application with the Denver Service Center of the Bureau of Land Management. The application shall be filed on a form approved by the Director, Bureau of Land Management, and shall be accompanied by a nonrefundable advance payment of $25 by guaranteed remittance. In order to maintain an application filed with the Bureau before the effective date of this section, the applicant shall submit an advance payment of $25 by guaranteed remittance no later than 30 days after the effective date of this section. If custody of a wild free-roaming horse or burro is granted by the authorized officer, the advance payment shall be applied against the custodial fee required to be paid at the time the cooperative agreement required by § 4740.4–3 of this title is executed.

David G. Houston,
Acting Assistant Secretary of the Interior.
January 11, 1983.

[FR Doc. 83–5363 Filed 3–3–83; 8:45 am]

Published in 48 F.R. 9260, March 4, 1983 - Effective: March 4, 1983

#2522

requirements of section 3 of Executive Order 12291.

Under 5 U.S.C. 605(b), the Administrator has certified that redesignations do not have a significant economic impact on a substantial number of small entities (See 46 FR 8709).

Under section 307(b)(1) of the Act, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by 60 days from today. This action may not be challenged later in proceedings to enforce its requirements. (See section 307(b)(2).)

List of Subjects in 40 CFR Part 81

Air pollution control, National parks, Wilderness areas.

(Sec. 107(d) Clean Air Act, as amended (42 U.S.C. 7407).)

Dated: February 25, 1983.

Anne M. Burford,

Administrator.

PART 81—DESIGNATIONS OF AREAS FOR AIR QUALITY PLANNING PURPOSES

Subpart C—Section 107 Attainment Status Designations

Section 81.336 of Part 81 of Chapter I, Title 40, Code of Federal Regulations is amended. In the table for "Ohio—TSP", the entry for Hamilton County should be revised to read as follows:

§ 81.336 [Amended]

OHIO—TSP

Designated area	Does not meet primary standards	Does not meet secondary standards	Cannot be classified	Better than national standards
• • •	•	•	•	•
Hamilton:				
Area bounded on the east by US 42, on the south by the Ohio River, on the west by Anderson Ferry Road north to US 52, US 52 east to North Bend Road, and on the north by North Bend Road east to SR 747, SR 747 north to SR 126, and SR 126 east to US 42.	X			
The remainder of Hamilton County				X
• • •	•	•	•	•

[FR Doc. 83-5589 Filed 3-3-83; 8:45 am]

BILLING CODE 6560-50-M

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

43 CFR Part 4700

[Circular No. 2522]

Wild Free-Roaming Horse and Burro Protection, Management and Control; Amendment To Provide a Fee for Adoption

AGENCY: Bureau of Land Management, Interior.

ACTION: Final rulemaking.

SUMMARY: This final rulemaking establishes fee levels for the adoption of wild free-roaming horses or burros, and requires that a portion of the fee accompany each application filed by the person wishing to take custody of a horse or burro, and that the applicant pay the cost of transportation to the point of pick up. It also requires the applicant to sign a cooperative agreement for the maintenance and protection of adopted animals.

EFFECTIVE DATE: March 4, 1983.

ADDRESS: Any inquiries or suggestions should be sent to: Director (250), Bureau of Land Management, 1800 C Street, NW., Washington, D.C. 20240.

SUPPLEMENTARY INFORMATION: A proposed rulemaking on adoption fees for wild free-roaming horses and burros was published in the Federal Register on July 26, 1982 (47 FR 32406), with a 60-day comment period. A total of 199 comments were received during the comment period, with 152 from individuals, 11 from representatives of associations organized to protect wild horses and burros, 9 from representatives of humane societies and other animal welfare associations, 4 from wildlife associations, 4 from agricultural and grazing associations, 2 from environmental groups, 8 from State governments, 2 from ranch or ranch-related companies, 3 from representatives of State-Federal cooperative extension services, 2 from members of Coordinated Resource Management Planning Committees in Nevada, one from a United States Senator, and one from a private attorney. Several of the commenters represented more than one type of organization, so the sum of the classes of comments does not equal the total number of comments.

None of the commenters objected to the idea of adoption fees. However, opposition to the proposed fee level for horses was expressed in 84 percent of the comments, primarily because the writers believed the proposed fee for horses would reduce the number of animals adopted, limit removal of excess wild horses from the public lands, make it difficult for fixed or lower income individuals to adopt animals, equal or exceed the local market value of domestic horses, lead to destruction of healthy animals, and increase adoption program costs. On the other hand, 10 percent of the responses indicated support for this fee. The reasons for support most frequently expressed were that it would increase both the cost-effectiveness of the program and the possibility of humane treatment for adopted animals, would have no effect on adoption demand, and would allocate program costs to those who benefit from the program.

The proposed $25 nonrefundable advance payment was addressed in 112 comments, with 89 opposing the advance payment. Five of the opponents supported a lower payment of from $2 to $15 per application. Twenty-three comments supported the proposed advance payment, primarily because it would discourage individuals who are not serious about adopting from filing applications.

The comments will be dealt with in more detail in the following section-by-section discussion of the proposed and final regulations.

Section 4740.4-3(d)(1). A total of 54 commenters suggested modifications of the amount of the custodial fee charged for the adoption of wild horses and burros. Twenty others supported the proposed custodial fees for horses and burros. Of those suggesting modifications, most favored reductions to fees ranging from $25 to $155 for horses and from $35 to less than $100, including transportation, for burros. Three comments suggested setting the fee to ensure full cost recovery. Several others suggested sliding scales or other flexible fees.

Based upon the comments, the purpose of the fees, and our analysis of the costs of the program, we have

concluded that a non-varying custodial fee of $125 plus transportation costs is appropriate for the adoption of wild horses, and that the proposed fee of $75 plus transportation costs is appropriate for burros. These fee levels will permit an increase in the number of horses adopted, continued recovery of a portion of the Federal costs of the program from those directly benefiting, and a reduction in the cost of maintaining animals awaiting adoption. The analysis showed that the number of burros adopted was not reduced by the establishment of the $75 fee on January 1, 1982.

While no comments opposed the imposition of a fee to cover transportation costs, several suggested reducing the charge to various levels considerably less than actual costs. One suggested setting a uniform transportation fee of no more than $50, regardless of destination. These suggestions have been considered but not determined feasible. Transportation is provided as a service only to adopters who do not choose to pick up animals at a holding facility near the point of capture. It would not be fair to charge adopters living nearby a transport fee, thus making them subsidize those whose actual costs would be greater than the fee charged. Transporting the animals in bulk to an eastern or midwestern adoption center reduces the costs to adopters in those regions below what they would incur if they themselves transported individual animals from, and their equipment to and from, a western holding facility.

No comments addressed the exception from custodial fees for unweaned offspring under 6 months of age accompanying the mothers. No commenters mentioned unweaned orphan foals, as distinguished from unweaned foals accompanied by mares or jennies and although it is considered unnecessary to mention them in the regulations, they are also not subject to custodial fees because of the special and expensive care that must be provided them. Few such unweaned orphans have been found in the wild horse and burro program.

Accordingly, § 4740.4–3(d)(1) has been adopted in the final rulemaking as proposed, except that the custodial fee for horses has been changed from $200 to $125.

Section 4740.4–3(d)(2). There were no comments on the proposed section, which did not change from the existing § 4740.4–2(d) except in punctuation, format and numbering. The proposed section has been adopted in the final rulemaking.

Section 4740.4–2. This proposed new section, which requires an application for adoption of a horse or burro to be accompanied by a nonrefundable advance payment of $25, attracted many comments. Of those who opposed the advance payment provision, all but two stated no reason. These two comments stated respectively that the cost of processing the advance payment check would be greater than the amount collected, and that no one would apply if the advance payment were required. Other comments suggested modifying the advance fee provision. Some suggested making it refundable in cases where applications are rejected; others suggested making it one-third of the custodial fee for the animal; still others suggested lowering the fee.

The $25 advance payment is necessary to discourage frivolous applications from individuals who are not prepared to adopt animals or who are not seriously interested in doing so. Reducing the number of noncommitted applicants will reduce the administrative costs both of processing such applications and of notifying those applicants of available animals. The required payment will reduce the number of "no-shows" at adoption centers, remind individuals of the serious commitment they are making by adopting an animal, and encourage them to evaluate more carefully their desire and ability to care for and maintain an animal before applying.

After careful consideration, the $25 advance payment provision has been adopted in the final rulemaking, and required to be made by guaranteed remittance (money order, certified check, cashier's check, etc.) to avoid unnecessary costs of processing applications with checks made on insufficient funds or on which payment has been stopped.

Language has also been added to the final rulemaking allowing individuals with applications on file at the time of this final rulemaking to maintain their applications by submitting the $25 advance payment within 30 days.

The Secretary has found that the public interest requires this final rulemaking to be made effective immediately. Because it reduces the custodial fee for the adoption of wild horses, setting the effective date of the final rulemaking the customary 30 days after publication would discourage adoptions during that 30-day interval. This would require the Bureau of Land Management to maintain unadopted horses for an additional 30 days at approximately $2500 per day, based on the number of animals now on hand. Postponing the effective date would harm the public by causing them to delay their acquisition of horses. In addition, because the Bureau intends to refund the difference between the amounts paid before the effective date of this rulemaking and the custodial fee for adoption set by this rulemaking, making the effective date 30 days from publication would add to the costs of the program by requiring the Bureau to collect the larger fee even though in 30 days it would have to refund a portion of it.

The principal author of this final rulemaking is John S. Boyles, Division of Wild Horses and Burros, assisted by the staff of the Office of Legislation and Regulatory Management.

It has been determined that this final rulemaking is not a major Federal action having a significant effect on the quality of the human environment and that no detailed statement under section 102(2)(C) of the National Environmental Policy Act of 1969 (42 U.S.C. 4332(2)(C)) is required.

The Department of the Interior has determined that this document is not a major rule under Executive Order 12291 and will not have a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 et seq.).

This rulemaking sets a fee for the adoption of wild free-roaming horses and burros, uniform for everyone wishing to adopt, and has no different impact on small entities than on individuals or large entities.

The information collection requirements contained in this rule have been approved by the Office of Management and Budget under 44 U.S.C. 3501 et seq. and assigned clearance number 1004–0042.

List of Subjects in 43 CFR Part 4700

Advisory committees, Aircraft, Intergovernmental relations, Penalties, Public lands, Range management, Wild horses and burros, Wildlife.

Under the authority of the Act of December 15, 1971, as amended (16 U.S.C. 1331–1340), the Act of June 28, 1934 (43 U.S.C. 315–315r) and the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1701 et seq.), Part 4700, Group 4700, Subchapter D, Chapter II of Title 43 of the Code of Federal

Regulation is amended as set forth below.

David G. Houston,

Acting Assistant Secretary of the Interior.

January 11, 1983.

PART 4700—[AMENDED]

1. Part 4700 is amended by adding immediately after the heading the note:

Note.—The information collection requirements of 43 CFR Part 4700 have been approved by the Office of Management and Budget under 44 U.S.C. 3501 et seq. and assigned clearance numbers 1004–0042 and 1004–0046. The information will be used to determine whether applicants for adoption and taking title to wild free-roaming horses and burros should be given custody of or title to such animals. The obligation to respond is required to obtain a benefit.

2. Section 4740.4–2 is renumbered § 4740.4–3 and is amended by revising paragraph (d) to read:

§ 4740.4–3 [Amended]

* * * * *

(d) Before wild free-roaming horses or burros are transferred, the applicant shall:

(1) Pay a custodial fee of $125 for each horse and $75 for each burro, except there shall be no custodial fee for an unweaned offspring under 6 months of age accompanying its mother, plus any transportation costs incurred for the transportation of the animals to the point of pickup; and

(2) Sign a cooperative agreement that incorporates provisions for custodial maintenance, including, but not limited to, provisions for proper maintenance of the animals and protection from inhumane treatment and commercial exploitation.

3. A new § 4740.4–2 is added to read:

§ 4740.4–2 Applications.

Any qualified person, organization or government agency wishing to take custody of a wild free-roaming horse or burro shall file an application with the Denver Service Center of the Bureau of Land Management. The application shall be filed on a form approved by the Director, Bureau of Land Management, and shall be accompanied by a nonrefundable advance payment of $25 by guaranteed remittance. In order to maintain an application filed with the Bureau before the effective date of this section, the applicant shall submit an advance payment of $25 by guaranteed remittance no later than 30 days after the effective date of this section. If custody of a wild free-roaming horse or burro is granted by the authorized officer, the advance payment shall be applied against the custodial fee required to be paid at the time the cooperative agreement required by § 4740.4–3 of this title is executed.

[FR Doc. 83-5383 Filed 3-3-83; 8:45 am]

BILLING CODE 4310-84-M

43 CFR Public Land Order 6356

[M 10562 (SD)]

South Dakota; Revocation of Presidential Proclamation Dated February 2, 1925

AGENCY: Bureau of Land Management, Interior.

ACTION: Public land order.

SUMMARY: This order revokes a Presidential proclamation which established a 20,613.20-acre game refuge in Harding County, South Dakota. Three hundred twenty acres, including its mineral estate, will be transferred to the State of South Dakota; 5,974.29 acres of national forest land will be opened to appropriate forms of surface disposition and mining; 80 acres of national forest lands will remain withdrawn as a recreation area; and the reserved mineral interest in 1,385 acres of land will be opened to mining. This order has only a record clearing effect on the remaining land which has passed into private ownership.

EFFECTIVE DATE: March 4, 1983.

FOR FURTHER INFORMATION CONTACT: Roland F. Lee, Montana State Office 406–657–6633.

By virtue of the authority vested in the Secretary of the Interior by Section 204 of the Federal Land Policy and Management Act of 1976, 90 Stat. 2751; 43 U.S.C. 1714, it is ordered as follows:

1. Presidential Proclamation of February 2, 1925, which withdrew public lands in the following described area in South Dakota, partly within the Custer National Forest, for use as a game refuge, is hereby revoked in its entirety:

Black Hills Meridian

T. 18 N., R. 7 E.,
Secs. 13 to 36, inclusive.
T. 18 N., R. 8 E.,
Secs. 17 to 20, inclusive;
Sec. 21, W½;
Secs. 29 to 32, inclusive.

The areas described aggregate 20,613.20 acres of land in Harding County, including 7,067.32 acres within the boundary of the Custer National Forest.

2. Of the lands in paragraph 1, the following described lands including mineral interests have been approved for transfer to the State of South Dakota under the provisions of Revised Statutes 2275 and 2276, 43 U.S.C. 851, 852 (1976), and are hereby made available for that purpose:

Black Hills Meridian

T. 18 N., R. 7 E.,
Sec. 17, S½N½ and NW¼SW¼;
Sec. 19, NE¼NE¼;
Sec. 20, NW¼NW¼;
Sec. 22, SW¼NW¼.

The area described contains 320 acres in Harding County.

3. At 8 a.m. on April 13, 1983, the following described lands included in those listed in paragraph 1 will be open to such forms of disposition as may by law be made of national forest lands, including mineral location and entry under the United States mining laws, subject to valid existing rights and the requirements of applicable regulations:

Custer National Forest Black Hills Meridian

T. 18 N., R. 7 E.,
Sec. 24, S½N½ and S½;
Sec. 25 and 36, all.
T. 18 N., R. 8 E.,
Sec. 17, W½E½, SE¼NE¼, E½W½, SW¼NW¼, W½SW¼, and E½SE¼;
Sec. 18, NW¼NE¼, E½SW¼NE¼, E½NW¼ SW¼NE¼, SE¼NE¼, N½SE¼, and SE¼SE¼;
Sec. 19, lots 2, 3, and 4, NE¼NE¼; E½NW¼, and S½SE¼SE¼;
Sec. 20, E½, E½W½, SE¼SW¼NW¼, E½W½SW¼, and SW¼SW¼SW¼;
Sec. 21, W½;
Secs. 29 to 32 inclusive.

The areas described aggregate 5, 974.29 acres in Harding County.

An additional 80 acres of national forest lands described as the NW¼NW¼ of Section 17 and the NE¼NE¼ of Section 18, T. 18 N., R. 8 E., will remain segregated by virtue of Public Land Order No. 1429 as part of Reva Gap Camp.

4. Of the lands listed in paragraph 1 the reserved mineral interest in the following described lands shall at 8 a.m. on April 13, 1983, be open to location and entry under the United States mining laws, subject to valid existing rights, the provisions of existing withdrawals and the requirements of applicable law.

Black Hills Meridian

T. 18 N., R., 7 E.,
Sec. 13, SE¼NW¼;
Sec. 14, W½E½, SE¼NW¼, NE¼SW¼, and NE¼SE¼;
Sec. 15, N½;
Sec. 17, NE¼SW¼ and N½SE¼;
Sec. 23, S½NE¼ and W½SE¼;
Sec. 24, N½NE¼;
Sec. 32, S½NE¼ and SE¼NW¼;
Sec. 33, SW¼NW¼ and NW¼SW¼.
T. 18 N., R. 8 E.,
Sec. 18, W½NW¼SW¼NE¼ and SW¼SW¼NE¼;
Sec. 19, SE¼SW¼, NE¼SE¼, SW¼SE¼, and N½SE¼SE¼;
Sec. 20, W½NW¼SW¼ and NW¼SW¼ SW¼.

The areas described aggregate 1,385 acres in Harding County.

DEPT. OF INTERIOR
BUR. OF LAND MANAGEMENT
1983 MAR 18 AM 11:54
RECEIVED
MONTANA STATE OFFICE
BILLINGS, MONTANA

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

43 CFR Part 4700

[Circular No. 2522]

Wild Free-Roaming Horse and Burro Protection, Management and Control; Amendment To Provide a Fee for Adoption

Under the authority of the Act of December 15, 1971, as amended (16 U.S.C. 1331–1340), the Act of June 28, 1934 (43 U.S.C. 315–315r) and the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1701 et seq.), Part 4700, Group 4700, Subchapter D, Chapter II of Title 43 of the Code of Federal Regulation is amended as set forth below.

PART 4700—[AMENDED]

1. Part 4700 is amended by adding immediately after the heading the note:

Note.—The information collection requirements of 43 CFR Part 4700 have been approved by the Office of Management and Budget under 44 U.S.C. 3501 et seq. and assigned clearance numbers 1004–0042 and 1004–0046. The information will be used to determine whether applicants for adoption and taking title to wild free-roaming horses and burros should be given custody of or title to such animals. The obligation to respond is required to obtain a benefit.

2. Section 4740.4–2 is renumbered § 4740.4–3 and is amended by revising paragraph (d) to read:

§ 4740.4–3 [Amended]

* * * * *

(d) Before wild free-roaming horses or burros are transferred, the applicant shall:

(1) Pay a custodial fee of $125 for each horse and $75 for each burro, except there shall be no custodial fee for an unweaned offspring under 6 months of age accompanying its mother, plus any transportation costs incurred for the transportation of the animals to the point of pickup; and

(2) Sign a cooperative agreement that incorporates provisions for custodial maintenance, including, but not limited to, provisions for proper maintenance of the animals and protection from inhumane treatment and commercial exploitation.

3. A new § 4740.4–2 is added to read:

§ 4740.4–2 Applications.

Any qualified person, organization or government agency wishing to take custody of a wild free-roaming horse or burro shall file an application with the Denver Service Center of the Bureau of Land Management. The application shall be filed on a form approved by the Director, Bureau of Land Management, and shall be accompanied by a nonrefundable advance payment of $25 by guaranteed remittance. In order to maintain an application filed with the Bureau before the effective date of this section, the applicant shall submit an advance payment of $25 by guaranteed remittance no later than 30 days after the effective date of this section. If custody of a wild free-roaming horse or burro is granted by the authorized officer, the advance payment shall be applied against the custodial fee required to be paid at the time the cooperative agreement required by § 4740.4–3 of this title is executed.

David G. Houston,
Acting Assistant Secretary of the Interior.
January 11, 1983.

[FR Doc. 83-5363 Filed 3-3-83; 8:45 am]

Published in 48 F.R. 9260, March 4, 1983 - Effective: March 4, 1983

LIBRARY

D-245

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

43 CFR Parts 3200, 3210, 3220, 3230, 3240 and 3250

[Circular No. 2523]

General Amendments to the Geothermal Resources Leasing Program

Under the authority of the Geothermal Steam Act of 1970 (30 U.S.C. 1001–1025), the regulations at Group 3200, Subchapter C, Chapter II of Title 43 of the Code of Federal Regulations are amended as set forth below:

PART 3200—GEOTHERMAL RESOURCES LEASING; GENERAL

1. Section 3200.0–6 is revised to read:

§ 3200.0–6 Preleasing procedures.

When an area is initially considered for geothermal leasing or when the need arises, the authorizing officer shall complete, in a timely manner, any environmental review determined to be necessary to conform with the National Environmental Policy Act of 1969 (42 U.S.C. 43323).

§ 3201.1–5 [Amended]

2. Section 3201–5 is amended by removing paragraph (b) in its entirety and removing the designation "(a)" at the beginning of the first paragraph of that section.

§ 3201.2 [Amended]

3. Section 3201.2(d) is amended by removing subparagraphs (3) and (4) in their entirety.

4. Section 32301.2(d) is revised to read:

§ 3203.5 Diligent exploration.

Each geothermal lease shall include provisions requiring diligent exploration until there is a well(s) capable of commerical production on the leased lands. Diligent exploration means postlease field operations, conducted by the lessee or designated operator, on or related to the leased lands. Diligent exploration operations include, but are not limited to, geochemical surveys, heat flow measurement, core drilling or test drilling of test wells. To qualify as diligent exploration, the results and associated expenditures of operation shall be submitted to the supervisor in accordance with applicable regulations. In addition, to qualify after the fifth year of the lease, operations shall exceed minimum per acre expenditure in accordance with the following table:

Lease year	Expenditure per acre
6	$4
7	6
8	8
9	10
10–15	12

All expenditures qualifying as diligent exploration during the first 5 years of a lease, and all expenditures during any subsequent year in excess of the minimum requirement, shall be credited by the supervisor against the requirement for successive years. However, in lieu of performing the minimum required diligent exploration in any lease year in which a minimum requirement is specified, the lessee may exercise the option of paying an additional rental of $3 per acre or fraction thereof. Failure to either pay the additional rental or complete the minimum required diligent exploration by the end of a lease year shall subject the lease to cancellation.

5. Section 3204.1 is revised to read:

§ 3204.1 General.

A lessee shall comply with all of the standard lease terms and conditions, any special lease stipulations added by the authorized officer and all Geothermal Resource Operational Orders issued pursuant to 30 CFR 270.11.

§ 3204–2 [Removed]

6. Section 3204.2 is removed in its entirety.

§ 3204.3 [Redesignated as § 3203.9]

7. Section 3204.3 is renumbered § 3203.9.

§ 3204.4 [Redesignated as § 3203.7]

8. Section 3204.4 is renumbered § 3203.7.

§ 3204.5 [Redesignated as § 3203.8]

9. Section 3204.5 is renumbered § 3203.8.

§ 3204.6 [Removed]

10. Section 3204.6 is removed in its entirety.

§ 3205.3–1 [Amended]

11. Section 3205.3–1 is amended by:

a. Revising the second sentence to read as follows:

"An application accompanied by a payment of the first year's rental which is deficient by not more than 10 percent shall be accepted by the authorized officer provided all other requirements are met, but if the additional rental is not paid within 30 days after receipt of notice the application shall be rejected or the lease, if issued, will be cancelled.

b. Revising the last sentence to read as follows:

"If the annual rental established for the lease to be issued is more than $1 per acre or fraction thereof, the applicant shall submit the additional rental due within 30 days after receipt of notice of the application shall be rejected."

§ 3205.3–3 [Removed]

12. Section 3205.3–3 is removed in its entirety.

§ 3206.8 [Amended]

13. Section 3206.8 is amended by revising the first sentence to read. "The provisions of these regulations may be made applicable to any oil and gas nationwide or statewide bond by filing in the proper BLM office a written consent to that effect and an agreement to be bound by the provisions of this section executed by the principal and surety."

§ 3209.3 [Amended]

14. Section 3209.3 is amended by revising the last sentence to read "Within 90 days after the filing of such 'Notice of Completion,' the authorized officer shall notify the party who had conducted the operations whether all the terms and conditions set out by the regulations in this subpart and in the Notice of Intent have been met, or whether additional measures shall be taken to correct any unacceptable damage to the lands, specifying the nature and extent of such measures."

PART 3210—NONCOMPETITIVE LEASES

§ 3210.2–1 [Amended]

15. Section 3210.2–1 is amended by

Published in 48 F.R. 17042, April 20, 1983 - Effective May 20, 1983.

removing paragraph (d) in its entirety and renumbering paragraph (e) as paragraph (d).

§ 3210.2–2 [Amended]

16. Section 3210.2–2 is amended by revising the first sentence to read "Applications for leases under this subpart shall be submitted only during application filing periods." and by removing the third sentence in its entirety.

PART 3220—COMPETITIVE LEASES

§ 3220.6 [Amended]

17. Section 3220.6(d) is amended by revising the first sentence to read "If the lease is awarded, 3 copies of the lease shall be sent to the successful bidder who shall execute them within 30 days from receipt thereof, pay the first year's rental and file the required bond(s)."

PART 3230—RIGHTS TO CONVERSION TO GEOTHERMAL LEASES OR APPLICATION FOR GEOTHERMAL LEASES [REMOVED]

18. Part 3230 is removed in its entirety.

PART 3240—RULES GOVERNING LEASES

§ 3241.1–1 [Amended]

19. Section 3241.1–1 is amended by removing paragraph (c) in its entirety.

§ 3241.2–1 [Amended]

20. Section 3241.2–1 is amended by inserting in the first sentence immediately after the word "approval" the words "or validation."

21. The title of subpart 3250 is revised to read:

Subpart 3250—Utilization of Geothermal Resources

Note.—The information collection requirements contained in this subpart have been approved by the Office of Management and Budget under 44 U.S.C. 3507 and assigned clearance number 1004–0063. This information is needed to permit the authorized officer to determine if a permit should be granted for use of the public lands for utilization of geothermal resources. The obligation to respond is required to obtain a benefit.

PART 3250—UTILIZATION OF GEOTHERMAL RESOURCES

§ 3250.0–1 [Amended]

22. Section 3250.0–1 is amended by removing the phrase "for the purpose of generating electric power" at the end of the paragraph.

§ 3250.0–3 [Amended]

23. Section 3250.0–3 is amended by revising the last sentence to read "The right to use lands under geothermal lease for the purpose of utilizing geothermal resources may be exercised only in accordance with these regulations."

24. Section 3250.0–5 is amended by revising paragraph (d) and adding a new paragraph (e) to read:

§ 3250.0–5 Definitions.

* * * * *

(d) "Utilization site" means that tract of Federal lands under geothermal lease authorized for utilization of geothermal energy including, but not limited to, substations, switch yards, waste disposal and storage facilities, utility service lines, transmission lines, loading docks, processing plants, greenhouses, gasohol plants, crop dryers and appurtenant structures.

(e) "Joint Utilization Agreement" means the arrangement between the holder of a geothermal resource lease and a third party for utilization of geothermal steam and associated geothermal resources produced from a leasehold, for operation of utilization facilities.

* * * * *

§ 3250.0–6 [Amended]

25. Section 3250.0–6 is amended by removing from the last sentence the phrase "a power plant site" and replacing it with the phrase "any proposed utilization."

26. Section 3250.1–1 is amended by revising the introductory text, paragraphs (d)(2) and (d)(3) to read:

§ 3250.1–1 Requirements for application.

Any lessee or any party to a joint utilization agreement or a sales contract who desires a license to use the surface of lands under Federal geothermal lease for construction of utilization facilities, other than as provided in 30 CFR Part 270 and § 3250.4 of this title, shall file an application with the authorized officer."

* * * * *

(d) * * *

(1) * * *

(2) A map or maps showing the boundaries of the site and the location and dimensions of buildings, cooling towers or ponds, waste disposal or storage sites, switch yards, roads, pipelines, utility service lines, transmission lines and all other structures or facilities used in connection with the utilization of the geothermal steam and associated geothermal resources. In addition, the authorized officer may require maps showing the general location of proposed facilities to be used in connection with utilization of the geothermal resources but outside the license area.

(3) A description of the proposed facility including pertinent information about any substations included in the facility, indicating whether the proposed facility is to be interconnected with other facilities and whether the energy produced is to be sold to others or used by the applicant.

* * * * *

27. Section 3250.3 is revised to read:

§ 3250.3 Environmental analysis.

The authorized officer shall complete, in a timely manner, any environmental review determined to be necessary to conform with the National Environmental Policy Act of 1969 (42 U.S.C. 4332).

§ 3250.5–1 [Amended]

28. Section 3250.5–1 is amended by removing from the first sentence of both paragraph (a) and paragraph (b) the phrase "a power plant site utilizing" and replacing it with the phrase "utilization facilities for".

§ 3250.5–2 [Amended]

29. Section 3250.5–2 is amended by removing the phrase "a power plant site utilizing " and replacing it with the phrase "utilization facilities for".

30. Section 3250.6–1 is revised to read:

§ 3250.6–1 Area covered by license.

(a) The area approved for the proposed utilization site shall be reasonably compact as determined by the authorized officer and shall be limited to as much of the surface of the lands applied for as the authorized officer determined necessary for the adequate utilization of the geothermal resources.

(b) Prior to commencing any surface disturbance activities related to the construction of a utilization facility licensed under provisions of this group, a permit to construct a utilization facility shall be obtained from the Supervisor. The application for such permit shall be filed in triplicate under the regulations in 30 CFR Part 270.

§ 3250.6–2 [Amended]

31. Section 3250.6–2 is amended by removing from paragraph (a) the phrase "an electrical power plant" and replacing it with the phrase "a utilization facility" and by removing from paragraph (c) the phrase "power plant" and replacing it with the phrase "utilization facility".

§ 3250.6–3 [Amended]

32. Section 3250.6–3 is amended by revising the first sentence to read "Rental at a rate to be determined by the authorized officer shall be paid annually, but said rental shall not be less than $100 per acre if the utilization facility is for electrical generation, or not less than $10 per acre if the utilization facility is for nonelectrical purposes."

33. Section 3250.7 is amended by revising paragraph (c)(2) to read:

§ 3250.7 Bonds.

(a) *Surety bond.* The licensee of an electrical generating facility shall furnish and maintain a surety bond of not less than $100,000, conditioned upon compliance with all the terms and conditions of the license. The licensee for a nonelectrical utilization facility may be required to furnish a surety bond

in an amount specified by the authorized officer. The authorized officer may determine not to require a surety bond in circumstances where it is determined that the nonelectrical uses have a low potential for causing damage to the environment.

* * * * *

(c) * * *

(2) indemnify the United States against any liability for damages or injury to life, person or property arising from the occupancy or use of the lands under license. Where a utilization facility license is granted under this subpart to a State or other governmental agency which does not have the authority to assume such liability with respect to damages caused by it to lands or property, such agency shall be responsible for repair or all such damages

* * * * *

Dated: February 10, 1983.

Garrey E. Carruthers,

Assistant Secretary of the Interior.

[FR Doc. 83-10470 Filed 4-19-83; 8:45 am]

DEPT OF INTERIOR
BUR. OF LAND MANAGEMENT
1983 MAY 24 AM 10 56
MONTANA STATE OFFICE
BILLINGS, MONTANA

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[Circular No. 2524]

43 CFR Part 1600

Planning, Programming, Budgeting; Amendments to the Planning Regulations; Elimination of Unneeded Provisions

Under the authority of sections 201 and 202 of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1711 and 1712), Part 1600, Subchapter A, Chapter II of Title 43 of the Code of Federal Regulations is revised to read as set forth below.

PART 1600—PLANNING, PROGRAMMING, BUDGETING

Subpart 1601—Planning

Sec.

1601.0–1 Purpose.
1601.0–2 Objective.
1601.0–3 Authority.
1601.0–4 Responsibilities.
1601.0–5 Definitions.
1601.0–6 Environmental impact statement policy.
1601.0–7 Scope.
1601.0–8 Principles.

Subpart 1610—Resource Management Planning

1610.1 Resource management planning guidance.
1610.2 Public participation.
1610.3 Coordination with other Federal agencies, State and local governments, and Indian tribes.
1610.3–1 Coordination of planning effort.
1610.3–2 Consistency requirements.
1610.4 Resource management planning process.
1610.4–1 Identification of issues.
1610.4–2 Development of planning criteria.
1610.4–3 Inventory data and information collection.
1610.4–4 Analysis of the management situation.
1610.4–5 Formulation of alternatives.
1610.4–6 Estimation of effects of alternatives.
1610.4–7 Selection of preferred alternative.
1610.4–8 Selection of resource management plan.
1610.4–9 Monitoring and evaluation.
1610.5 Resource management plan approval, use and modification.
1610.5–1 Resource management plan approval, and administrative review.
1610.5–2 Protest procedures.
1610.5–3 Conformity and implementation.
1610.5–4 Maintenance.
1610.5–5 Amendment.
1610.5–6 Revision.
1610.5–7 Situations where action can be taken based on another agency's plan or a land use analysis.
1610.6 Management decision review by Congress.
1610.7 Designation of areas.
1610.7–1 Designation of areas unsuitable for surface mining.
1610.7–2 Designation of Areas of Critical Environmental Concern.
1610.8 Transition period.

Authority: 43 U.S.C. 1711–1712.

PART 1600—PLANNING, PROGRAMMING, BUDGETING

Subpart 1601—Planning

§ 1601.0–1 Purpose.

The purpose of this subpart is to establish in regulations a process for the development, approval, maintenance, amendment and revision of resource management plans, and the use of existing plans for public lands administered by the Bureau of Land Management.

§ 1601.0–2 Objective.

The objective of resource management planning by the Bureau of Land Management is to maximize resource values for the public through a rational, consistently applied set of regulations and procedures which promote the concept of multiple use management and ensure participation by the public, state and local governments, Indian tribes and appropriate Federal agencies. Resource management plans are designed to guide and control future management actions and the development of subsequent, more detailed and limited scope plans for resources and uses.

§ 1601.0–3 Authority.

These regulations are issued under the authority of sections 201 and 202 of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1711–1712); the Public Rangelands Improvement Act of 1978 (43 U.S.C. 1901); section 3 of the Federal Coal Leasing Amendments Act of 1976 (30 U.S.C. 201(a)); sections 522, 601, and 714 of the Surface Mining Control and Reclamation Act of 1977 (30 U.S.C. 1201 et seq.); and the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.).

1601.0–4 Responsibilities.

(a) National level policy and procedure guidance for planning shall be provided by the Secretary and the Director.

(b) State Directors shall provide quality control and supervisory review, including plan approval, for plans and related environmental impact statements and shall provide additional guidance, as necessary, for use by District and Area managers. State Directors shall file draft and final environmental impact statements associated with resource management plans and amendments.

(c) Resource management plans, amendments, revisions and related environmental impact statements shall be prepared by District or Area

Published in 48 F.R. 20364, May 5, 1983 -

Effective July 5, 1983.

Managers, and approved by State Directors. In general, Area Managers will be responsible for directly supervising the preparation of the plan, and the District Manager for providing general direction and guidance to the planning effort.

§ 1601.0–5 Definitions.

As used in this part, the term:

(a) "Areas of Critical Environmental Concern" or "ACEC" means areas within the public lands where special management attention is required (when such areas are developed or used or where no development is required) to protect and prevent irreparable damage to important historic, cultural, or scenic values, fish and wildlife resources, or other natural systems or processes, or to protect life and safety from natural hazards. The identification of a potential ACEC shall not, of itself, change or prevent change of the management or use of public lands.

(b) "Conformity or conformance" means that a resource management action shall be specifically provided for in the plan, or if not specifically mentioned, shall be clearly consistent with the terms, conditions, and decisions of the approved plan or plan amendment.

(c) "Consistent" means that the Bureau of Land Management plans will adhere to the terms, conditions, and decisions of officially approved and adopted resource related plans, or in their absence, with policies and programs, subject to the qualifications in § 1615.2 of this title.

(d) "Guidance" means any type of written communication or instruction that transmits objectives, goals, constraints, or any other direction that helps the District and Area Managers and staff know how to prepare a specific resource management plan.

(e) "Local government" means any political subdivision of the State and any general purpose unit of local government with resource planning, resource management, zoning, or land use regulation authority.

(f) "Multiple use" means the management of the public lands and their various resource values so that they are utilized in the combination that will best meet the present and future needs of the American people; making the most judicious use of the lands for some or all of these resources or related services over areas large enough to provide sufficient latitude for periodic adjustments in use to conform to changing needs and conditions; the use of some lands for less than all of the resources; a combination of balanced and diverse resource uses that takes into account the long term needs of future generations for renewable and non-renewable resources, including, but not limited to, recreation, range, timber, minerals, watershed, wildlife and fish, and natural scenic, scientific and historical values; and harmonious and coordinated management of the various resources without permanent impairment of the productivity of the lands and the quality of the environment with consideration being given to the relative values of the resources and not necessarily to the combination of uses that will give the greatest economic return or the greatest unit output.

(g) "Officially approved and adopted resource related plans" means plans, policies, programs and processes prepared and approved pursuant to and in accordance with authorization provided by Federal, State or local constitutions, legislation, or charters which have the force and effect of State law.

(h) "Public" means affected or interested individuals, including consumer organizations, public land resource users, corporations and other business entities, environmental organizations and other special interest groups and officials of State, local, and Indian tribal governments.

(i) "Public lands" means any lands or interest in lands owned by the United States and administered by the Secretary of the Interior through the Bureau of Land Management, except lands located on the Outer Continental Shelf and lands held for the benefit of Indians, Aleuts and Eskimos.

(j) "Resource area" means a geographic portion of a Bureau of Land Management district. It is the administrative subdivision whose manager has primary responsibility for day-to-day resource management activities and resource use allocations and is, in most instances, the area for which resource management plans are prepared and maintained.

(k) "Resource management plan" means a land use plan as described by the Federal Land Policy and Management Act. The resource management plan generally establishes in a written document:

(1) Land areas for limited, restricted or exclusive use; designation, including ACEC designation; and transfer from Bureau of Land Management Administration;

(2) Allowable resource uses (either singly or in combination) and related levels of production or use to be maintained;

(3) Resource condition goals and objectives to be attained;

(4) Program constraints and general management practices needed to achieve the above items;

(5) Need for an area to be covered by more detailed and specific plans;

(6) Support action, including such measures as resource protection, access development, realty action, cadastral survey, etc., as necessary to achieve the above;

(7) General implementation sequences, where carrying out a planned action is dependent upon prior accomplishment of another planned action; and

(8) Intervals and standards for monitoring and evaluating the plan to determine the effectiveness of the plan and the need for amendment or revision.

It is not a final implementation decision on actions which require further specific plans, process steps, or decisions under specific provisions of law and regulations.

§ 1601.0–6 Environmental impact statement policy.

Approval of a resource management plan is considered a major Federal action significantly affecting the quality of the human environment. The environmental analysis of alternatives and the proposed plan shall be accomplished as part of the resource management planning process and, wherever possible, the proposed plan and related environmental impact statement shall be published in a single document.

§1601.0–7 Scope.

(a) These regulations apply to all public lands.

(b) These regulations also govern the preparation of resource management plans when the only public land interest is the mineral estate.

§1601.0–8 Principles.

The development, approval, maintenance, amendment and revision of resource management plans will provide for public involvement and shall be consistent with the principles described in section 202 of the Federal Land Policy and Management Act of 1976. Additionally, the impact on local economies and uses of adjacent or nearby non-Federal lands and on non-public land surface over Federally-owned mineral interests shall be considered.

Subpart 1610—Resource Management Planning

§1610.1 Resource management planning guidance.

(a) Guidance for preparation and amendment of resource management plans may be provided by the Director and State Director, as needed, to help the District and Area Manager and staff prepare a specific plan. Such guidance may include the following:

(1) National level policy which has been established through legislation, regulations, executive orders or other Presidential, Secretarial or Director approved documents. This policy may include appropriately developed resource management commitments, suct as a right-of-way corridor crossing several resource areas, which are not required to be reexamined as part of the planning process.

(2) Analysis requirements, planning procedures and other written information and instructions required to be considered in the planning process.

(3) Guidance developed at the State Director level, with necessary and appropriate governmental coordination as prescribed by § 1610.3 of this title. Such guidance shall be reconsidered by the State Director at any time during the planning process that the State Director level guidance is found, through public involvement or other means, to be inappropriate when applied to a specific area being planned.

(b) A resource management plan shall be prepared and maintained on a resource area basis, unless the State Director authorizes a more appropriate area.

(c) An interdisciplinary approach shall be used in the preparation, amendment and revision of resource management plans as provided in 40 CFR 1502.6. The disciplines of the preparers shall be appropriate to the values involved and the issues identified during the issue identification and environmental impact statement scoping stage of the planning process. The District or Area Manager may use any necessary combination of Bureau of Land Management staff, consultants, contractors, other governmental personnel, and advisors to achieve an interdisciplinary approach.

§ 1610.2 Public Participation.

(a) The public shall be provided opportunities to meaningfully participate in and comment on the preparation of plans, amendments and related guidance and be given early notice of planning activities. Public involvement in the resource management planning process shall conform to the requirements of the National Environmental Policy Act and associated implementing regulations.

(b) The Director shall, early in each fiscal year, publish a planning schedule advising the public of the status of each plan in process of preparation or to be started during that fiscal year, the major action on each plan during that fiscal year and projected new planning starts for the 3 succeeding fiscal years. The notice shall call for public comments on projected new planning starts so that such comments can be considered in refining priorities for those years.

(c) Upon starting the preparation, amendment or revision of resource management plans, public participation shall be initiated by a notice published in the Federal Register and appropriate media, including newspapers of general circulation in the State, adjoining States where the District Manager deems it appropriate, and the District. This notice may also constitute the scoping notice required by regulation for the National Environmental Policy Act (40 CFR 1501.7). This notice shall include the following:

(1) Description of the proposed planning action;

(2) Identification of the geographic area for which the plan is to be prepared;

(3) The general types of issues anticipated;

(4) The disciplines to be represented and used to prepare the plan;

(5) The kind and extent of public participation opportunities to be provided;

(6) The times, dates and locations scheduled or anticipated for any public meetings, hearings, conferences or other gatherings, as known at the time;

(7) The name, title, address and telephone number of the Bureau of Land Management official who may be contacted for further information; and

(8) The location and availability of documents relevant to the planning process.

(d) A list of individuals and groups known to be interested in or affected by a resource management plan shall be maintained by the District Manager and those on the list shall be notified of public participation activities. Individuals or groups may ask to be placed on this list. Public participation activities conducted by the Bureau of Land Management shall be documented by a record or summary of the principal issues discussed and comments made.

The documentation together with a list of attendees shall be available to the public and open for 30 days to any participant who wishes to clarify the views he/she expressed.

(e) At least 15 days' public notice shall be given for public participation activities where the public is invited to attend. Any notice requesting written comments shall provide for at least 30 calendar days for response. Ninety days shall be provided for review of the draft plan and draft environmental impact statement. The 90-day period shall begin when the Environmental Protection Agency publishes a notice of the filing of the draft environmental impact statement in the Federal Register.

(f) Public notice and opportunity for participation in resource mangement plan preparation shall be appropriate to the areas and people involved and shall be provided at the following specific points in the planning process:

(1) General notice at the outset of the process inviting participation in the identification of issues (See §§ 1610.2(c) and 1610.4–1);

(2) Review of the proposed planning criteria (See § 1610.4–2);

(3) Publication of the draft resource management plan and draft environmental impact statement (See § 1610.4–7);

(4) Publication of the proposed resource management plan and final environmental impact statement which triggers the opportunity for protest (See §§ 1610.4–8 and 1610.5–1(b)); and

(5) Public notice and comment on any significant change made to the plan as a result of action on a protest (See § 1610.5–1(b)).

(g) Copies of an approved resource management plan and amendments shall be reasonably available for public review. This includes copies at the State Office for the District, the District Manager's Office, the Area Office for lands directly involved and additional locations determined by the District Manager. Plans, amendments and revisions shall be published and single copies shall be available to the public upon request during the public participation process. After approval, a fee may be charged for additional copies at a rate established by the Director.

(h) Supporting documents to a resource management plan shall be available for public review at the office where the plan was prepared.

(i) Fees for reproducing requested documents beyond those used as part of the public participation activities and other than single copies of the printed plan amendment or revision may be charged according to the Department of the Interior schedule for Freedom of Information Act requests in 43 CFR Part 2.

(j) When resource management plans involve areas of potential mining for

coal by means other than underground mining, and the surface is privately owned, the Bureau of Land Management shall consult with all surface owners who meet the criteria in § 3400.0–5 of this title. Contact shall be made in accordance with Subpart 3427 of this title and shall provide time to fully consider surface owner views. This contact may be made by mail or in person by the District or Area Manager or his/her appropriate representative. A period of at least 30 days from the time of contact shall be provided for surface owners to convey their preference to the Area or District Manager.

(k) If the plan involves potential for coal leasing, a public hearing shall be provided prior to the approval of the plan, if requested by any person having an interest which is, or may be, adversely affected by implementation of such plan. The hearing shall be conducted as prescribed in § 3420.1–5 of this title and may be combined with a regularly scheduled public meeting. The authorized officer conducting the hearing shall:

(1) Publish a notice of the hearing in a newspaper of general circulation in the affected geographical area at least once a week for 2 consecutive weeks;

(2) Provide an opportunity for testimony by anyone who so desires; and

(3) Prepare a record of the proceedings of the hearing.

§ 1610.3 Coordination with other Federal agencies, State and local governments, and Indian tribes.

§1610.3–1 Coordination of planning efforts.

(a) In addition to the public involvement prescribed by § 1610.2 of this title the following coordination is to be accomplished with other Federal agencies, State and local governments, and Indian tribes. The objectives of the coordination are for the State Directors and District and Area Managers to keep apprised of non-Bureau of Land Management plans; assure that consideration is given to those plans that are germane in the development of resource management plans for public lands; assist in resolving, to the extent practicable, inconsistencies between Federal and non-Federal government plans; and provide for meaningful public involvement of other Federal agencies, State and local government officials, both elected and appointed, and Indian tribes in the development of resource management plans, including early pubic notice of proposed decisions which may have a significant impact on non-Federal lands.

(b) State Directors and District and Area Managers shall provide other Federal agencies, State and local governments, and Indian tribes opportunity for review, advice, and suggestion on issues and topics which may affect or influence other agency or other government programs. To facilitate coordination with State governments, State Directors should seek the policy advice of the Governor(s) on the timing, scope and coordination of plan components; definition of planning areas; scheduling of public involvement activities; and the multiple use opportunities and constraints on public lands. State Directors may seek written agreements with Governors or their designated representatives on processes and procedural topics such as exchanging information, providing advice and participation, and timeframes for receiving State government participation and review in a timely fashion. If an agreement is not reached, the State Director shall provide opportunity for Governor and State agency review, advice and suggestions on issues and topics that the State Director has reason to believe could affect or influence State government programs.

(c) In developing guidance to District Managers, in compliance with section 1611 of this title, the State Director shall:

(1) Ensure that it is as consistent as possible with existing officially adopted and approved resource related plans, policies or programs of other Federal agencies, State agencies, Indian tribes and local governments that may be affected, as prescribed by § 1610.3–2 of this title;

(2) Identify areas where the proposed guidance is inconsistent with such policies, plans or programs and provide reasons why the inconsistencies exist and cannot be remedied; and

(3) Notify the other Federal agencies, State agencies, Indian tribes or local governments with whom consistency is not achieved and indicate any appropriate methods, procedures, actions and/or programs which the State Director believes may lead to resolution of such inconsistencies.

(d) A notice of intent to prepare, amend, or revise a resource management plan shall be submitted, consistent with State procedures for coordination of Federal activities, for circulation among State agencies. This notice shall also be submitted to Federal agencies, the heads of county boards, other local government units and Tribal Chairmen or Alaska Native Leaders that have requested such notices or that the responsible line manager has reason to believe would be concerned with the plan or amendment. These notices shall be issued simultaneously with the public notices required under § 1610.2(b) of this title.

(e) Federal agencies, State and local governments and Indian tribes shall have the time period prescribed under § 1610.2 of this title for review and comment on resource management plan proposals. Should they notify the District or Area Manager, in writing, of what they believe to be specific inconsistencies between the Bureau of Land Management resource management plan and their officially approved and adopted resources related plans, the resource management plan documentation shall show how those inconsistencies were addressed and, if possible, resolved.

(f) When an Advisory Council has been formed under section 309 of the Federal Land Policy and Management Act for the district in which the resource area is located, that council shall be informed and their views sought and considered throughout the resource management planning process.

§ 1610.3–2 Consistency requirements.

(a) Guidance and resource management plans and amendments to management framework plans shall be consistent with officially approved or adopted resource related plans, and the policies and programs contained therein, of other Federal agencies, State and local governments and Indian tribes, so long as the guidance and resource management plans are also consistent with the purposes, policies and programs of Federal laws and regulations applicable to public lands, including Federal and State pollution control laws as implemented by applicable Federal and State air, water, noise, and other pollution standards or implementation plans.

(b) In the absence of officially approved or adopted resource-related plans of other Federal agencies, State and local governments and Indian tribes, guidance and resource management plans shall, to the maximum extent practical, be consistent with officially approved and adopted resource related policies and programs of other Federal agencies, State and local governments and Indian tribes. Such consistency will be accomplished so long as the guidance and resource management plans are consistent with the policies, programs and provisions of Federal laws and regulations applicable to public lands, including, but not limited to, Federal and State pollution control laws as implemented by applicable Federal and State air, water,

noise and other pollution standards or implementation plans.

(c) State Directors and District and Area Managers shall, to the extent practicable, keep apprised of State and local governmental and Indian tribal policies, plans, and programs, but they shall not be accountable for ensuring consistency if they have not been notified, in writing, by State and local governments or Indian tribes of an apparent inconsistency.

(d) Where State and local government policies, plans, and programs differ, those of the higher authority will normally be followed.

(e) Prior to the approval of a proposed resource management plan, or amendment to a management framework plan or resource management plan, the State Director shall submit to the Governor of the State(s) involved, the proposed plan or amendment and shall identify any known inconsistencies with State or local plans, policies or programs. The Governor(s) shall have 60 days in which to identify inconsistencies and provide recommendations in writing to the State Director. If the Governor(s) does not respond within the 60-day period, the plan or amendment shall be presumed to be consistent. If the written recommendation(s) of the Governor(s) recommend changes in the proposed plan or amendment which were not raised during the public participation process on that plan or amendment, the State Director shall provide the public with an opportunity to comment on the recommendation(s). If the State Director does not accept the recommendations of the Governor(s), The State Director shall notify the Governor(s) and the Governor(s) shall have 30 days in which to submit a written appeal to the Director of the Bureau of Land Management. The Director shall accept the recommendations of the Governor(s) if he/she determines that they provide for a reasonable balance between the National interest and the State's interest. The Director shall communicate to the Governor(s) in writing and publish in the **Federal Register** the reasons for his/her determination to accept or reject such Governor's recommendations.

§ 1610.4 Resource management planning process.

§ 1610.4-1 Identification of issues.

At the outset of the planning process, the public, other Federal agencies, State and local governments and Indian tribes shall be given an opportunity to suggest concerns, needs, and resource use, development and protection opportunities for consideration in the preparation of the resource management plan. The District and Area Manager shall analyze those suggestions, plus available district records of resource conditions, trends, needs and problems, and select topics and determine the issues to be addressed during the planning process. Issues may be modified during the planning process to incorporate new information. The identification of issues shall also comply with the scoping process required by regulations implementing the National Environmental Policy Act (40 CFR 1501.7).

§ 1610.4-2 Development of planning criteria.

The District or Area Manager shall prepare criteria to guide development of the resource management plan or revision, to ensure that it is tailored to the issues previously identified and to ensure that unnecessary data collection and analyses are avoided. Planning criteria shall generally be based upon applicable law, Director and State Director guidance, the results of public participation and coordination with other Federal agencies, State and local governments and Indian tribes. Proposed planning criteria, including any significant changes, shall be made available for public comment prior to being approved by the District manager for use in the planning process. Planning criteria may be changed as planning proceeds, based on public suggestions and the findings of the various studies and assessments.

§ 1610.4-3 Inventory data and information collection.

(a) The District or Area Manager shall arrange for resource, environmental, social, economic and institutional data and information to be collected, or assembled if already available. New information and inventory data collection will emphasize significant issues and decisions with the greatest potential impact. Inventory data and information shall be collected in a manner that aids application in the planning process, including subsequent monitoring requirements.

§ 1610.4-4 Analysis of the management situation.

The District or Area Manager shall analyze the inventory data and other information available to determine the ability of the resource area to respond to identified issues and opportunities. The analysis of the management situation shall provide, consistent with multiple use principles, the basis for formulating reasonable alternatives, including the types of resources for development or protection. Factors to be considered may include, but are not limited to:

(a) The types of resource use and protection authorized by the Federal Land Policy and Management Act and other relevant legislation;

(b) Opportunities to meet goals and objectives defined in national and State Director guidance;

(c) Resource demand forecasts and analyses relevant to the resource area;

(d) The estimated sustained levels of the various goods, services and uses that may be attained under existing biological and physical conditions and under differing management practices and degrees of management intensity which are economically viable under benefit cost or cost effectiveness standards prescribed in national or State Director guidance;

(e) Specific requirements and constraints to achieve consistency with policies, plans and programs of other Federal agencies, State and local government agencies and Indian tribes;

(f) Opportunities to resolve public issues and management concerns;

(g) Degree of local dependence on resources from public lands;

(h) The extent of coal lands which may be further considered under provisions of § 3420.2-3(a) of this title; and

(i) Critical threshold levels which should be considered in the formulation of planned alternatives.

§ 1610.4-5 Formulation of alternatives.

All reasonable resource management alternatives shall be considered and several complete alternatives developed for detailed study. The alternatives developed shall reflect the variety of issues and guidance applicable to the resource uses. In order to limit the total number of alternatives analyzed in detail to a manageable number for presentation and analysis, all reasonable variations shall be treated as subalternatives. One alternative shall be for no action, which means continuation of present level or systems of resource use. The plan shall note any alternatives identified and eliminated from detailed study and shall briefly discuss the reasons for their elimination.

§ 1610.4-6 Estimation of effects of alternatives.

The District or Area Manager shall estimate and display the physical, biological, economic, and social effects of implementing each alternative considered in detail. The estimation of effects shall be guided by the planning criteria and procedures implementing

the National Environmental Policy Act. The estimate may be stated in terms of probable ranges where effects cannot be precisely determined.

§ 1610.4–7 Selection of preferred alternative.

The District or Area Manager shall evaluate the alternatives and the estimation of their effects according to the planning criteria, and develop a preferred alternative which shall best meet Director and State Director guidance. The preferred alternative shall be incorporated into the draft resource management plan and draft environmental impact statement. The resulting draft resource management plan and draft environmental impact statement shall be forwarded to the State Director for approval, publication, and filing with the Environmental Protection Agency. This draft plan and environmental impact statement shall be provided for comment to the Governor of the State involved, and to officials of other Federal agencies, State and local governments and Indian tribes that the State Director has reason to believe would be concerned. This action shall constitute compliance with the requirements of § 3420.1–7 of this title.

§1610.4–8 Selection of resource management plan.

After publication of the draft resource management plan and draft environmental impact statement; the District Manager shall evaluate the comments received and select and recommend to the State Director, for supervisory review and publication, a proposed resource management plan and final environmental impact statement. After supervisory review of the proposed resource management plan, the State Director shall publish the plan and file the related environmental impact statement.

1610.4–9 Monitoring and evaluation.

The proposed plan shall establish intervals and standards, as appropriate, for monitoring and evaluation of the plan. Such intervals and standards shall be based on the sensitivity of the resource to the decisions involved and shall provide for evaluation to determine whether mitigation measures are satisfactory, whether there has been significant change in the related plans of other Federal agencies, State or local governments, or Indian tribes, or whether there is new data of significance to the plan.

The District Manager shall be responsible for monitoring and evaluating the plan in accordance with the established intervals and standards and at other times as appropriate to determine whether there is sufficient cause to warrant amendment or revision of the plan.

§ 1610.5 Resource management plan approval, use and modification.

§1610.5–1 Resource management plan approval and administrative review.

(a) The proposed resource management plan or revision shall be submitted by the District Manager to the State Director for supervisory review and approval. When the review is completed the State Director shall either publish the proposed plan and file the related environmental impact statement or return the plan to the District Manager with a written statement of the problems to be resolved before the proposed plan can be published.

(b) No earlier than 30 days after the Environmental Protection Agency publishes a notice of the filing of the final environmental impact statement in the Federal Register, and pending final action on any protest that may be filed, the State Director shall approve the plan. Approval shall be withheld on any portion of a plan or amendment being protested until final action has been completed on such protest. Before such approval is given, there shall be public notice and opportunity for public comment on any significant change made to the proposed plan. The approval shall be documented in a concise public record of the decision, meeting the requirements of regulations for the National Environmental Policy Act of 1969 (40 CFR 1505.2).

§ 1610.5–2 Protest procedures.

(a) Any person who participated in the planning process and has an interest which is or may be adversely affected by the approval or amendment of a resource management plan may protest such approval or amendment. A protest may raise only those issues which were submitted for the record during the planning process.

(1) The protest shall be in writing and shall be filed with the Director. The protest shall be filed within 30 days of the date the Environmental Protection Agency published the notice of receipt of the final environmental impact statement containing the plan or amendment in the Federal Register. For an amendment not requiring the preparation of an environmental impact statement, the protest shall be filed within 30 days of the publication of the notice of its effective date.

(2) The protest shall contain:

(i) The name, mailing address, telephone number and interest of the person filing the protest;

(ii) A statement of the issue or issues being protested;

(iii) A statement of the part or parts of the plan or amendment being protested;

(iv) A copy of all documents addressing the issue or issues that were submitted during the planning process by the protesting party or an indication of the date the issue or issues were discussed for the record; and

(v) A concise statement explaining why the State Director's decision is believed to be wrong.

(3) The Director shall promptly render a decision on the protest. The decision shall be in writing and shall set forth the reasons for the decision. The decision shall be sent to the protesting party by certified mail, return receipt requested.

(b) The decision of the Director shall be the final decision of the Department of the Interior.

§ 1610.5–3 Conformity and implementation.

(a) All future resource management authorizations and actions, as well as budget or other action proposals to higher levels in the Bureau of Land Management and Department, and subsequent more detailed or specific planning, shall conform to the approved plan.

(b) After a plan is approved or amended, and if otherwise authorized by law, regulation, contract, permit, cooperative agreement or other instrument of occupancy and use, the District and Area Manager shall take appropriate measures, subject to valid existing rights, to make operations and activities under existing permits, contracts, cooperative agreements or other instruments for occupancy and use, conform to the approved plan or amendment within a reasonable period of time. Any person adversely affected by a specific action being proposed to implement some portion of a resource management plan or amendment may appeal such action pursuant to 43 CFR 4.400 at the time the action is proposed for implementation.

(c) If a proposed action is not in conformance, and warrants further consideration before a plan revision is scheduled, such consideration shall be through a plan amendment in accordance with the provisions of § 1610.5–5 of this title.

(d) More detailed and site specific plans for coal, oil shale and tar sand resources shall be prepared in accordance with specific regulations for those resources: group 3400 of this title for coal; group 3900 of this title for oil shale; and part 3140 of this title for tar sand. These activity plans shall be in

conformance with land use plans prepared and approved under the provisions of this part.

§ 1610.5–4 Maintenance.

Resource management plans and supporting components shall be maintained as necessary to reflect minor changes in data. Such maintenance is limited to further refining or documenting a previously approved decision incorporated in the plan. Maintenance shall not result in expansion in the scope of resource uses or restrictions, or change the terms, conditions, and decisions of the approved plan. Maintenance is not considered a plan amendment and shall not require the formal public involvement and interagency coordination process described under §§ 1610.2 and 1610.3 of this title or the preparation of an environmental assessment or environmental impact statement. Maintenance shall be documented in plans and supporting records.

§ 1610.5–5 Amendment.

A resource management plan may be changed through amendment. An amendment shall be initiated by the need to consider monitoring and evaluation findings, new data, new or revised policy, a change in circumstances or a proposed action that may result in a change in the scope of resource uses or a change in the terms, conditions and decisions of the approved plan. An amendment shall be made through an environmental assessment of the proposed change, or an environmental impact statement, if necessary, public involvement as prescribed in § 1610.2 of this title, interagency coordination and consistency determination as prescribed in § 1610.3 of this title and any other data or analysis that may be appropriate. In all cases, the effect of the amendment on the plan shall be evaluated. If the amendment is being considered in response to a specific proposal, the analysis required for the proposal and for the amendment may occur simultaneously.

(a) If the environmental assessment does not disclose significant impact, a finding of no significant impact may be made by the District Manager. The District Manager shall then make a recommendation on the amendment to the State Director for approval, and upon approval, the District Manager shall issue a public notice of the action taken on the amendment. If the amendment is approved, it may be implemented 30 days after such notice.

(b) If a decision is made to prepare an environmental impact statement, the amending process shall follow the same procedure required for the preparation and approval of the plan, but consideration shall be limited to that portion of the plan being considered for amendment. If several plans are being amended simultaneously, a single environmental impact statement may be prepared to cover all amendments.

§ 1610.5–6 Revision.

A resource management plan shall be revised as necessary, based on monitoring and evaluation findings (§ 1610.4–9), new data, new or revised policy and changes in circumstances affecting the entire plan or major portions of the plan. Revisions shall comply with all of the requirements of these regulations for preparing and approving an original resource management plan.

§ 1610.5–7 Situations where action can be taken based on another agency's plan, or a land use analysis.

These regulations authorize the preparation of a resource management plan for whatever public land interests exist in a given land area. There are situations of mixed ownership where the public land estate is under non-Federal surface, or administration of the land is shared by the Bureau of Land Management with another Federal agency. The District and Area Manager may use the plans or the land use analysis of other agencies when split or shared estate conditions exist in any of the following situations:

(a) Another agency's plan (Federal, State, or local) may be used as a basis for an action only if it is comprehensive and has considered the public land interest involved in a way comparable to the manner in which it would have been considered in a resource management plan, including the opportunity for public participation.

(b) After evaluation and review, the Bureau of Land Management may adopt another agency's plan for continued use as a resource management plan if an agreement is reached between the Bureau of Land Management and the other agency to provide for maintenance and amendment of the plan, as necessary, to comply with law and policy applicable to public lands.

(c) A land use analysis may be used to consider a coal lease when there is no Federal ownership interest in the surface or when coal resources are insufficient to justify plan preparation costs. The land use analysis process, as authorized by the Federal Coal Leasing Amendments Act, consists of an environmental assessment or impact statement, public participation as required by § 1610.2 of this title, the consultation and consistency determinations required by § 1610.3 of this title, the protest procedure prescribed by § 1610.5–2 of this title and a decision on the coal lease proposal. A land use analysis meets the planning requirements of section 202 of the Federal Land Policy and Management Act. The decision to approve the land use analysis and to lease coal is made by the Departmental official who has been delegated the authority to issue coal leases.

§ 1610.6 Management decision review by Congress.

The Federal Land Policy and Management Act requires that any Bureau of Land Management management decision or action pursuant to a management decision which totally eliminates one or more principal or major uses for 2 or more years with respect to a tract of 100,000 acres or more, shall be reported by the Secretary to Congress before it can be implemented. This report shall not be required prior to approval of a resource management plan which, if fully or partially implemented, would result in such an elimination. The required report shall be submitted as the first action step in implementing that portion of a resource management plan which would require elimination of such a use.

§ 1610.7 Designation of areas.

§ 1610.7–1 Designation of areas unsuitable for surface mining.

(a)(1) The planning process is the chief process by which public land is reviewed to assess whether there are areas unsuitable for all or certain types of surface coal mining operations under section 522(b) of the Surface Mining Control and Reclamation Act. The unsuitability criteria to be applied during the planning process are found in § 3461.1 of this title.

(2) When petitions to designate land unsuitable under section 522(c) of the Surface Mining Control and Reclamation Act are referred to the Bureau of Land Management for comment, the resource management plan, or plan amendment if available, shall be the basis for review.

(3) After a resource management plan or plan amendment is approved in which lands are assessed as unsuitable, the District Manager shall take all necessary steps to implement the results of the unsuitability review as it applies to all or certain types of coal mining.

(b)(1) The resource management planning process is the chief process by

which public lands are reviewed for designation as unsuitable for entry or leasing for mining operations for minerals and materials other than coal under section 601 of the Surface Mining Control and Reclamation Act.

(2) When petitions to designate lands unsuitable under section 601 of the Surface Mining Control and Reclamation Act are received by the Bureau of Land Management, the resource management plan, if available, shall be the basis for determinations for designation.

(3) After a resource management plan or plan amendment in which lands are designated unsuitable is approved, the District Manager shall take all necessary steps to implement the results of the unsuitability review as it applies to minerals or materials other than coal.

§ 1610.7–2 Designation of areas of critical environmental concern.

Areas having potential for Areas of Critical Environmental Concern (ACEC) designation and protection management shall be identified and considered throughout the resource management planning process (see §§ 1610.4–1 through 1610.4–9).

(a) The inventory data shall be analyzed to determine whether there are areas containing resources, values, systems or processes or hazards eligible for further consideration for designation as an ACEC. In order to be a potential ACEC, both of the following criteria shall be met:

(1) *Relevance.* There shall be present a significant historic, cultural, or scenic value; a fish or wildlife resource or other natural system or process; or natural hazard.

(2) *Importance.* The above described value, resource, system, process, or hazard shall have substantial significance and values. This generally requires qualities of more than local significance and special worth, consequence, meaning, distinctiveness, or cause for concern. A natural hazard can be important if it is a significant threat to human life or property.

(b) The State Director, upon approval of a draft resource management plan, plan revision, or plan amendment involving ACECs, shall publish a notice in the Federal Register listing each ACEC proposed and specifying the resource use limitations, if any, which would occur if it were formally designated. The notice shall provide a 60-day period for public comment on the proposed ACEC designation. The approval of a resource management plan, plan revision, or plan amendment constitutes formal designation of any ACEC involved. The approved plan shall include the general management practices and uses, including mitigating measures, identified to protect designated ACEC.

§ 1610.8 Transition period.

(a) Until superseded by resource management plans, management framework plans may be the basis for considering proposed actions as follows:

(1) The management framework plan shall be in compliance with the principle of multiple use and sustained yield and shall have been developed with public participation and governmental coordination, but not necessarily precisely as prescribed in §§ 1610.2 and 1610.3 of this title.

(2) No sooner than 30 days after the Environmental Protection Agency publishes a notice of the filing of a final court-ordered environmental impact statement—which is based on a management framework plan—proposed actions may be initiated without any further analysis or processes included in this subpart.

(3) For proposed actions other than those described in paragraph (a)(2) of this section, determination shall be made by the District or Area Manager whether the proposed action is in conformance with the management framework plan. Such determination shall be in writing and shall explain the reasons for the determination.

(i) If the proposed action is in conformance, it may be further considered for decision under procedures applicable to that type of action, including requirements of regulations for implementing the procedural provisions of the National Environmental Policy Act in 40 CFR Parts 1500–1508.

(ii) If the proposed action is not in conformance with the management framework plan, and if the proposed action warrants further favorable consideration before a resource management plan is scheduled for preparation, such consideration shall be through a management framework plan amendment using the provisions of § 1610.5–5 of this title.

(b)(1) If an action is proposed where public lands are not covered by a management framework plan or a resource management plan, an environmental assessment and an environmental impact statement, if necessary, plus any other data and analysis necessary to make an informed decision, shall be used to assess the impacts of the proposal and to provide a basis for a decision on the proposal.

(2) A land disposal action may be considered before a resource management plan is scheduled for preparation, through a planning analysis, using the process described in § 1610.5–5 of this title for amending a plan.

Garrey E. Carruthers,
Assistant Secretary of the Interior.
May 2, 1983.

[FR Doc. 83–11981 Filed 5–4–83; 8:45 am]

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

43 CFR Part 2200

[Circular No. 2525]

Amendments To Modify Appraisal Procedure and Provide Segregation of Public Lands Subject to Exchange

Under the authority of sections 205, 206 and 302 of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1715, 1716, 1732), Part 2200, Group 2200, Subchapter B, Chapter II of Title 43 of the Code of Federal Regulations is amended as set forth below.

§ 2200.5 [Amended]

1. Section 2200.0–5 is amended by: removing the phrase "where fair market value appraisals" and replacing it with the phrase "where valuations."

(a) Amending paragraph (h) by removing the phrase "where fair market value appraisals" and replacing it with the phrase "where valuations"; and

(b) Amending paragraph (i) by removing the phrase "fair market" and replacing it with the word "equal".

§ 2200.3 [Amended]

2. Section 2200.3(e) is removed in its entirety.

3. Section 2201.1 is amended by:

§ 2201.1 [Amended]

(a) Amending paragraph (a) by adding at the end thereof the sentence "The notice published under § 1601.6–3(b)(1) of this title may, if so designated in the notice, serve as the notice of realty action required by this section and may segregate the public lands covered by the exchange proposal to the same extent that they would have been under a notice of realty action issued under this section if so stated in the notice. Any such notice given under § 1601.6–3(b)(1) shall be published and distributed under the requirements of this section and provide a 45-day comment period."; and

(b) Amending paragraph (e) by removing the phrase "or past" from the last sentence thereof.

§ 2201.2 [Amended]

4. Section 2201.2 is amended by:

a. Amending paragraph (a) by removing from the last sentence thereof the word "shall" and replacing it with the word "may"; and

b. Adding a new paragraph (e) to read:

* * * * *

(e) Where 2 or more exchange proposals are submitted covering the same public lands, in whole or in part, the authorized officer shall review the proposals and advise the exchange proponents as to the acceptance or nonacceptance of their proposals in the same manner as specified in paragraphs (b) through (d) of this section.

5. Section 2201.3 is revised to read:

§ 2201.3 Valuations.

(a) No exchange shall be deemed suitable if it is not an equal value exchange; however, such exchange may include a money equalization pursuant to § 2201.5(c) of this title.

(b) Appraisals to determine whether the lands and interests in lands to be exchanged are of equal value shall be in accordance with the principles in the Interagency Department of Justice publication entitle "Uniform Appraisal Standards for Federal Land Acquisitions.

(c) The authorized officer shall use the "Methodology for an Alternative Method of Determining the Value of Lands for Exchange Containing Oil Shale and Associated Minerals," a guidance document for determining equal value in lieu of an appraisal to determine equal value only for lands containing oil shale and any associated minerals when he/she determines an appraisal to be inappropriate. The Director, Bureau of Land Management, shall review the use of this alternative methodology to determine if it has been properly applied in lieu of an appraisal. When the authorized officer uses the procedures contained in the methodology described herein to determine equal value, the notice of realty action issued in connection with the exchange shall state that the methodology procedures are being used pursuant to a determination by the Director.

Dated: February 28, 1983.

Garrey E. Carruthers,

Assistant Secretary of the Interior.

[FR Doc. 83–10472 Filed 4–19–83; 8:45 am]

RECEIVED
BUR. OF LAND MGMT
MAY 10 7 52 AM '83
CALIF. STATE OFFICE
SACRAMENTO, CALIF.

Published in 48 F.R. 16885, April 20, 1983 - Effective May 20, 1983.

Library

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

43 CFR Part 2200

[Circular No. 2525]

Amendments To Modify Appraisal Procedure and Provide Segregation of Public Lands Subject to Exchange

BUR. OF LAND MANAGEMENT
1983 MAY 10 PM 12:
BILLINGS, MONTANA

Under the authority of sections 205, 206 and 302 of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1715, 1716, 1732), Part 2200, Group 2200, Subchapter B, Chapter II of Title 43 of the Code of Federal Regulations is amended as set forth below.

§ 2200.5 [Amended]

1. Section 2200.0–5 is amended by: removing the phrase "where fair market value appraisals" and replacing it with the phrase "where valuations."

(a) Amending paragraph (h) by removing the phrase "where fair market value appraisals" and replacing it with the phrase "where valuations"; and

(b) Amending paragraph (i) by removing the phrase "fair market" and replacing it with the word "equal".

§ 2200.3 [Amended]

2. Section 2200.3(e) is removed in its entirety.

3. Section 2201.1 is amended by:

§ 2201.1 [Amended]

(a) Amending paragraph (a) by adding at the end thereof the sentence "The notice published under § 1601.6–3(b)(1) of this title may, if so designated in the notice, serve as the notice of realty action required by this section and may segregate the public lands covered by the exchange proposal to the same extent that they would have been under a notice of realty action issued under this section if so stated in the notice. Any such notice given under § 1601.6–3(b)(1) shall be published and distributed under the requirements of this section and provide a 45-day comment period."; and

(b) Amending paragraph (e) by removing the phrase "or past" from the last sentence thereof.

§ 2201.2 [Amended]

4. Section 2201.2 is amended by:

a. Amending paragraph (a) by removing from the last sentence thereof the word "shall" and replacing it with the word "may"; and

b. Adding a new paragraph (e) to read:

* * * * *

(e) Where 2 or more exchange proposals are submitted covering the same public lands, in whole or in part, the authorized officer shall review the proposals and advise the exchange proponents as to the acceptance or nonacceptance of their proposals in the same manner as specified in paragraphs (b) through (d) of this section.

5. Section 2201.3 is revised to read:

§ 2201.3 Valuations.

(a) No exchange shall be deemed suitable if it is not an equal value exchange; however, such exchange may include a money equalization pursuant to § 2201.5(c) of this title.

(b) Appraisals to determine whether the lands and interests in lands to be exchanged are of equal value shall be in accordance with the principles in the Interagency Department of Justice publication entitle "Uniform Appraisal Standards for Federal Land Acquisitions.

(c) The authorized officer shall use the "Methodology for an Alternative Method of Determining the Value of Lands for Exchange Containing Oil Shale and Associated Minerals," a guidance document for determining equal value in lieu of an appraisal to determine equal value only for lands containing oil shale and any associated minerals when he/she determines an appraisal to be inappropriate. The Director, Bureau of Land Management, shall review the use of this alternative methodology to determine if it has been properly applied in lieu of an appraisal. When the authorized officer uses the procedures contained in the methodology described herein to determine equal value, the notice of realty action issued in connection with the exchange shall state that the methodology procedures are being used pursuant to a determination by the Director.

Dated: February 28, 1983.

Garrey E. Carruthers,

Assistant Secretary of the Interior.

[FR Doc. 83–10472 Filed 4–19–83; 8:45 am]

Published in 48 F.R. 16885, April 20, 1983 - Effective May 20, 1983.

Library

DEPT. OF INTERIOR
BUR. OF LAND MANAGEMENT

1983 JUN 22 AM 9:32

RECEIVED
MONTANA STATE OFFICE
BILLINGS, MONTANA

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

43 CFR Parts 3200, 3210, 3220, 3240 and 3250

[Circular No. 2526]

Geothermal Resources Leasing Program; General Amendments

Under the authority of the Geothermal Steam Act of 1970 (30 U.S.C. 1001–1025, Group 3200), subchapter C, Chapter ii of Title 43 of the Code of Federal Regulations is amended as set forth below.

1. The following notes are inserted immediately following the part headings:

PART 3200—[AMENDED]

Note.—The information collection requirements contained in Part 3200 of Group 3200 have been approved by the Office of Management and Budget under 44 U.S.C. 3507 and assigned clearance number 1004–0074. The information is being collected to allow the authorized officer to determine if lease applicants or lessees are qualified to hold geothermal leases, to enable the authorized officer to complete necessary environmental reviews of prelease exploration operations, and to ensure that all operations on public lands are conducted in compliance with terms and conditions of permits and leases. This information will be used in making those determinations, in completing the subject environmental reviews, and in obtaining the necessary insurances. The obligation to respond is required to obtain a benefit.

PART 3210—[AMENDED]

Note.—The information collection requirements contained in part 3210 of Group 3200 have been approved by the Office of Management and Budget under 44 U.S.C. 3607 and assigned clearance number 1004–0038. The information is being collected to allow the authorized officer to determine if lease applicants are qualified to hold geothermal leases. This information will be used in making those determinations. The obligation to respond is required to obtain a benefit.

PART 3220—[AMENDED]

Note.—The information collection requirements contained in Part 3220 of Group 3200 have been approved by the Office of Management and Budget under 44 U.S.C. 3507 and assigned clearance number 1004–0074. The information is being collected to allow the authorized officer to determine the qualified bidder of the highest bonus bid for a competitive lease parcel. This information will be used in making those determinations. The obligation to respond is required to obtain a benefit.

PART 3240—[AMENDED]

Note.—The information collection requirements contained in Part 3240 of Group 3200 have been approved by the Office of Management and Budget under 44 U.S.C. 3507 and assigned clearance number 1004–0074. The information being collected to allow the authorized officer to determine if parties obtaining an interest in a lease are qualified to hold such interest. This information will be used in making those determinations. The obligation to respond is required to obtain a benefit.

PART 3250—[AMENDED]

Note.—The information collection requirements contained in Part 3250 have been approved by the Office of Management and Budget under 44 U.S.C. 3507 and assigned clearance number 1004–0063. The information is being collected to allow the authorized officer to determine that the applicant is qualified to hold a utilization license, to enable the authorized officer to complete necessary environmental reviews, and to ensure that a utilization facility is constructed and maintained in compliance with terms and conditions of a license. This information will be used in making that determination, in completing environmental reviews, and in ensuring compliance. The obligation to respond is required to obtain a benefit.

PART 3201—[AMENDED]

§ 3201.2 [Amended]

2. Section 3201.2(e) is removed in its entirety.

3. Section 3202.2 is retitled and revised as follows:

PART 3202—[AMENDED]

§ 3202.2 Proof of qualifications.

Submission of a lease application or offer, or request for approval of an assignment, shall constitute certification of compliance with the regulations of this group and the Geothermal Steam Act of 1970. (30 U.S.C. 1001–1025.) Any party seeking to acquire or already holding a Federal geothermal lease or interest therein may be required by the authorized officer to submit proof that the party is qualified to hold a geothermal lease. Such proof shall be

Published in 48 F.R. 24367, June 1, 1983 - Effective July 1, 1983.

submitted within 30 days after receipt of request.

3a. Section 3202.2–1 is revised to read as follows:

§ 3202.2–1 Proof which may be required.

The authorized officer may require:

(a) Evidence that the lessee does not hold acreage in excess of that prescribed in § 3201.2 of this title. A lessee may be additionally required to submit the serial numbers and percent interest held in all leases as of a specified date.

(b) Evidence that the lessee or applicant is a citizen of the United States or, if a corporation or association, that the entity is in compliance with § 3202.1 of this title.

(c) Evidence that the individual executing an application, lease, or transfer of interest on behalf of another party is authorized to act in that capacity. In the case of a guardian or trustee, a copy of the authorizing court order or other legal instrument shall constitute such evidence.

(d) Evidence indicating whether the applicant or lessee is the sole party in interest and, if not, providing the names, addresses, and nature of interests of any other parties.

(e) Evidence showing that the municipality or governmental unit involved is authorized to hold geothermal leases. The evidence shall include a copy of the governing body's resolution authorizing the particular action being taken.

(f) Evidence setting forth the names and addresses of all members or stockholders controlling more than 10 percent of the corporation or association.

PART 3210—[AMENDED]

§ 3210.2–1 [Amended]

4. Section 3210.2–1 is amended by removing the words "the following:" from the fourth sentence in the first paragraph, by removing paragraphs (a), (b) and (d) in their entirety and by removing the designation "(c)" from paragraph (c) and changing the first word "A" to "a".

PART 3220—[AMENDED]

§ 3220.2 [Removed]

5. Section 3220.2 is removed in its entirety.

Dated: April 20, 1983.

Garrey E. Carruthers,

Assistant Secretary of the Interior.

[FR Doc. 83–14716 Filed 5–27–83; 8:45 am]

Medicine (HFV–133), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–443–3410.

SUPPLEMENTARY INFORMATION: Norden Laboratories, Inc., Lincoln, NE 68501, filed NADA 126–232 providing for the safe and effective use of sustained-release tablets containing 8 grams of sulfamethazine for treating calves for bacterial pneumonia caused by *Pasteurella* spp., colibacillosis (bacterial scours) caused by *Escherichica coli*, and calf diphtheria caused by *Fusobacterium necrophorum*. Effectiveness of the product was established based on Norden's approved NADA 49–892, which is for the same product in a different tablet size. Norden also submitted data demonstrating that therapeutically effective blood plasma levels of free sulfamethazine are produced within 4 to 6 hours after administration of the drug and are sustained for up to 96 hours.

Animal safety in calves was established based on data showing the safety of doses containing up to three times the recommended dosage level. A tissue residue study established that use of the drug as proposed, with an 18-day withdrawal period, would result in no residues exceeding the negligible residue tolerance provided for in 21 CFR 556.670. Based on the data and information submitted, the NADA is approved and the regulations are amended accordingly.

In accordance with the freedom of information provisions of Part 20 (21 CFR Part 20) and § 541.11(e)(2)(ii) (21 CFR 541.11(e)(2)(ii)), a summary of safety and effectiveness data and information submitted to support approval of this application may be seen in the Dockets Management Branch (HFA–305), Food and Drug Administration, Rm. 4–62, 5600 Fishers Lane, Rockville, MD 20857, from 9 a.m. to 4 p.m., Monday through Friday.

The Bureau of Veterinary Medicine has carefully considered the potential environmental effects of this action and has concluded that the action will not have a significant impact on the human environment and that an environment impact statement therefore will not be prepared. The Bureau's finding of no significant impact and the evidence supporting this finding, contained in a statement of exemption (pursuant to 21 CFR 25.1(f) (1) (iii) and (g)) may be seen in the Docket Management Branch (address above) between 9 a.m. and 4 p.m., Monday through Friday.

List of Subjects in 21 CFR Part 520

Animal drugs, Oral.

Therefore, under the Federal Food, Drug, and Cosmetic Act (sec. 512(i), 82 Stat. 347 (21 U.S.C. 360b(i))) and under authority delegated to the Commissioner of Food and Drugs (21 CFR 5.10) and redelegated to the Bureau of Veterinary Medicine (21 CFR 5.83), Part 520 is amended by adding new § 520.2260c, to read as follows:

PART 520—ORAL DOSAGE FORM NEW ANIMAL DRUGS NOT SUBJECT TO CERTIFICATION

§ 520.2260c Sulfamethazine sustained-release tablets.

(a) *Sponsor.* See No. 011519 in § 510.600(c) of this chapter for use of an 8-gram sulfamethazine sustained-release tablet.

(b) *Conditions of use*—(1) *Amount.* 8 grams (1 tablet) per 45 pounds of body weight as a single dose.

(2) *Indications for use.* In calves for sustained treatment of pneumonia caused by *Pasteurella* spp., colibacillosis (bacterial scours) caused by *Escherichia coli;* and calf diptheria caused by *Fusobacterium necrophorum.*

(3) *Limitations.* If there is no response within 2 to 3 days, reevaluate therapy. Do not crush tablets. Treated animals must not be slaughtered for food within 18 days after the latest treatment. Federal law restricts this drug to use by or on the order of a licensed veterinarian.

Effective date. June 10, 1983.

(Sec. 512(i), 82 Stat. 347 (21 U.S.C. 360b(i)))

Dated: May 31, 1983.

Lester M. Crawford,

Director, Bureau of Veterinary Medicine.

[FR Doc. 83–15539 Filed 6–9–83; 8:45 am]

BILLING CODE 4160–01–M

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

30 CFR Part 226

[Circular No. 2527]

Unit or Cooperative Agreements; Formation and Operation of Onshore Federal and Indian Oil and Gas Unit Plans

AGENCY: Bureau of Land Management, Interior.

ACTION: Final rulemaking.

SUMMARY: This final rulemaking will amend the regulations governing the formation and operation of onshore Federal and Indian oil and gas unit plans. The provisions are revised and modernized to eliminate unnecessary items and to incorporate certain modifications in recognition of changed circumstances which have evolved since 1951, when the part was last published in its entirety. The model unit agreement (30 CFR 226.12) for unproven areas is revised to incorporate all previously accepted modifications and those resulting from this rulemaking.

EFFECTIVE DATE: July 11, 1983.

ADDRESS: George F. Brown, Deputy Associate Director for Onshore Minerals Operations, Bureau of Land Management, 12203 Sunrise Valley Drive, Reston, Virginia 22091.

FOR FURTHER INFORMATION CONTACT: Mr. Gerald R. Daniels (703) 860–7535, (FTS) 928–7535, or Mr. Stephen H. Spector (703) 860–7969, (FTS) 928–7969.

SUPPLEMENTARY INFORMATION: The principal authors of this final rulemaking are Mr. Gerald R. Daniels and Mr. Stephen H. Spector, Reston, Virginia; Mr. Leo Kozola, Casper, Wyoming; and Mr. Joseph Lara, Albuquerque, New Mexico.

By Secretarial Order No. 3087, of December 3, 1982, the Secretary of the Interior transferred all onshore minerals management functions, except royalty management, on non-Indian lands from the Minerals Management Service (MMS) to the Bureau of Land Management (BLM). All such functions relating to Indian lands similarly were transferred to the BLM by an amendment to the Order.

These unitization regulations, as well as the non-royalty provisions of other onshore regulations contained in Chapter II, Title 30 of the Code of Federal Regulations will be transferred to Title 43 of the CFR at a later date.

The MMS published these regulations as proposed rulemaking on June 10, 1982 (47 FR 25252). Comments were invited for 45 days ending July 26, 1982. There were 25 separate comments received, including 16 from oil and gas operators, 4 from law firms with oil and gas practice, 2 from consultants involved in the formation of units, 1 from an oil and gas association, 1 from an organization which represents several Indian Tribes, and 1 from an agency of the Federal Government.

Most commenters felt the proposal adequately incorporated all approved modifications to unit agreements currently in use and one went as far as endorsing the proposal as published. However, most respondents recommended various technical, editorial or, in some cases, substantive modification to the proposal, which are discussed herein.

A generalized comment expressed by two operators related to oil and gas

operations in Alaska, particularly on the North Slope. They both expressed concern about a unit operator's ability to meet the time requirements in order to fulfill the obligations under a unit agreement in the Arctic region. We recognize that the model contained in these regulations may not address the unique operating conditions which may be encountered in Alaska. While we believe most of these concerns can be resolved by reliance on section 25 of the model, UNAVOIDABLE DELAY, it is also possible for field personnel in Alaska to authorize appropriate modifications in the language of the model agreement which address these concerns. However, we do not believe such provisions need be included in the model agreement, since most unitization proposals are for lands in the "lower 48."

Another area of general concern expressed by two commenters was the impact of Indian lands and leases on the formation and development of units. While the commenters urged opposite solutions to a perceived problem (one urged more and the other less direct Indian involvement in approval), they both seemed to agree that the proposed modification to section 226.7 was an improvement. We have not adopted the suggestion to include a provision for tribal consent in the regulations. The BLM will continue the past MMS practice of looking to the appropriate office of the Bureau of Indian Affairs (BIA) for contact with and consent by tribal of individual allottee lessors to unitization proposals involving Indian lands, and will continue to require final approval thereof by BIA, including appropriate tribal and allottee consent. In addition, since the Indian leases involved are issued under Federal law contained in Title 25 of the United States Code, reference to "tribal law" does not appear appropriate for these regulations. BLM will continue to incorporate all necessary modifications to proposed unit agreements and plans involving Indian lands which BIA provides to meet special situations. The suggestion to include some of the usual modifications in the model agreement has not been adopted since the vast majority of proposed agreements do not include Indian lands and § 226.12 is provided as a model to cover most situations. The inclusion of references to "Indian lands" or royalties due the "Indian tribe" is generally provided by the BIA prior to the agreement being presented for final approval.

The following comments are listed under the section of the proposed regulation to which they relate. Sections which received no comments or only editorial suggestions are not listed.

Definitions. (§ 226.2)

In the interest of facilitating possible future additions to this section and for uniformity with generally accepted practice, the definitions are now listed in alphabetical order and are listed without any individual designation (i.e., (a), (b), etc.) as they appeared in the proposed rulemaking.

Authorized Officer

The definition of the Deputy Minerals Manager has been replaced with a definition of "authorized officer." The recent transfer of the onshore minerals management functions from MMS to BLM makes this change appropriate; however, this should not impact the performance of the various unit approval functions by BLM. In a related change, the final rulemaking includes a definition for "Proper BLM office." This definition and that for "authorized officer" are identical to those found in Title 43 CFR Group 3000.

Participating area

Several commenters suggested that the definition of a "participating area" be expanded to eliminate uncertainty and different interpretations. While we agree that it would be desirable to have a precise definition that could be used in all cases to determine the participating area, we feel such a definition is not possible. Guidelines to eliminate field office inconsistencies will be developed and issued as soon as practical. However, the regulatory definition must be general enough to cover the diverse situations which actually are encountered by BLM in its administration of these regulations. A suggestion to modify the definition so that it conforms more closely with the content of section 11 of the model agreement has been adopted.

Designation of unit area; depth of test well. (§ 226.3)

A few commenters requested that the references to furnishing and protecting information should be made more specific and refer to the specific section of 30 CFR Part 221. In addition, a reference to land status omitted reference to Indian land. All requested revisions have been made.

Parties to unit agreement. (§ 226.5)

Several commenters recommended revising this section to eliminate the requirement to submit evidence no longer required by the leasing regulations of Title 43 of the CFR. This change has been adopted.

Qualification of unit operator. (§ 226.6)

This section has not been modified even though several commenters pointed to the proposed modification of the BLM's leasing regulations. When the change to Title 43 of the CFR becomes final, the basic "manner" of qualification will be changed; however, the reference in these regulations to such manner will remain correct. Should any future changes be made to the qualification section of the leasing rules, these also would be incorporated automatically by this provision.

Inclusion of non-Federal lands. (§ 226.7)

In addition to the general comments concerning Indian lands noted above, minor changes were made for clarity.

Approval of unit agreement. (§ 226.8)

Several commenters questioned the deletion of paragraph (b) from the existing § 226.8. Generally, they stated the provision authorized the waiver of portions of the operating regulations of 30 CFR Part 221 whenever: (i) Federal land constitutes less than 50 percent of the unitized land, (ii) the field is fully developed, and (iii) the Federal land has less than 50 percent of the estimated recoverable unitized substances. However, past experience has shown that relief under this provision has not been requested and even without the provision, the authorized officer can still apply or waive 30 CFR Part 221, as appropriate, with respect to a particular drilling operation on Federal or Indian land. As previously stated in the proposed rulemaking, we believe the benefit of operating under the same general control has been shown and that retention of the prior provision is unnecessary.

A few commenters stated that the current practice of accepting a non-Federal unit agreement when less than 10 percent of the unitized area is Federal land should be specifically authorized in the regulations. We agree, but believe a more appropriate section for such a provision is § 226.4, *Preliminary consideration of unit agreement,* and appropriate language has been included there.

Retroactive approval of a communitization agreement. (§ 226.9–1)

Several commenters suggested that while the provision may prove beneficial, it was inappropriate for inclusion in these regulations and should be included in Title 43 Group 3100. BLM's proposed rulemaking of June 30, 1982, includes an identical provision at 43 CFR 3105.2 (47 FR 28550, 28561). Therefore, this proposed

provision has been deleted from further consideration by this rulemaking.

Model onshore unit agreement for unproven area. (§ 226.12)

Several commenters recommended editorial changes, such as the capitalization of the section headings, punctuation and grammatical improvement. Where the established meaning of a provision is unaffected by the proposed change, the recommendation has been adopted. The recommended changes to individual sections of the model are discussed below:

Section 1. A few commenters suggested some change in the wording of this paragraph; however, as the existing wording is clear and effective, it has been retained.

Section 2(d). A commenter questioned the addition of language permitting use of a date, other than the agreed to effective date. Upon reconsideration, the proposed language has been dropped.

Section 2(e). Several commenters took exception to the elimination of that portion of section 2(e) of the modified agreements currently in use which provides for a 2-year extension beyond the 10-year period at which time contraction is required. While most commenters agreed that 10 years normally would be sufficient time to develop the unit area, they pointed to several instances when the 2-year extension was appropriate and had been utilized. There have not been any apparent abuses of this provision, and it has been shown to be of legitimate value in aiding conservation of the resource. Therefore, these comments are accepted and the modified language currently in use is retained and included in the regulation.

Sections 9 and 9(a). Several commenters indicated that these proposed provisions were unclear. The language had been included to indicate when operations begin. The suggestion to use only one term throughout the section has been adopted. It should now be clear that the obligations of this section are fulfilled when actual drilling operations are commenced and continued thereafter diligently.

Two commenters took exception to the use of the terms "penetrate" and "penetrated" in place of the existing terms "test" and "tested." The intent of the change was to provide more clarification. As the desired result apparently was not achieved, the existing terms have been retained.

The language of the proposed rulemaking would have changed the ability of the authorized officer to modify the drilling requirement from the model now in use. Several commenters questioned the appropriateness of limiting this discretion. While we continue to believe that fixed drilling requirements are in the public interest, we agree that the limitation of flexibility can result in actual hardship. Therefore, the language of the existing model has been retained.

The designation "9a" has been dropped from the optional multiple well provision so that the model will more clearly indicate that: (i) When multiple wells are required, it is part of the DRILLING TO DISCOVERY section, and (ii) in all cases, the last paragraph of section 9 will relate to unit termination.

The provision which includes voluntary termination of a unit agreement during the first year has been modified in both sections 9 and 20 to read "* * * during the first 6 months * * *." This change is made so that the provision will be consistent with the provision resulting in automatic termination for failure to commence the initial well within 6 months after the unit plan becomes effective, unless an extension has been granted. Several commenters expressed support for this provision. In fact, one commenter stated that "To obtain the benefits of unitization, the parties should be obligated to drill at least one obligation well."

Section 11. One commenter identified an inconsistency between the first and second paragraphs of this section. We agree that the provisions did not agree as to the inclusion of lands "which are necessary for unit operations" in a participating area. While the majority of participating areas include only those lands which are reasonably proved productive of unitized substances in paying quantities, some units require other land which is critical to unit operations to be included in a participating area. For example, these other lands may include those upon which an injection well is located. Therefore, to remove the ambiguity, the phrase "* * * which are necessary for unit operations" has been added to the second paragraph.

One commenter requested the relaxation of strict requirement that only the "* * * last approved public-land survey as of the effective date of each initial participating area" be utilized. We cannot agree. While not all officially recognized cadastral surveys are performed by Government employees, they are all *approved* in accordance with the system used since 1789 to provide for orderly transfer of our Nation's lands.

One commenter pointed out that the same basic concept was referred to twice in the section but with the use of two different terms. The use of the phrase "reasonably *estimated* to be productive" was said to be somewhat different than "reasonably *proved* to be productive." We agree and have changed the reference in the second paragraph to use "proved."

One commenter recommended additional language dealing with elimination of land from a participating area due to depletion of unitized substances. As we are not aware that the current language has presented any problem in administration, this suggested change was not adopted.

Section 13. This section had been rewritten in the proposed rulemaking so that the objective would be stated in simpler terms, recognizing that the current provision covers several possible well locations. One commenter expressed concern that the intent of the provision had been altered. We believe the new terms provide for drilling both to expand an existing participating area and to establish new ones, even when such drilling takes place from a surface location within a previously established participating area. However, to more precisely indicate the intent, the term "that" has been substituted for "the" in line eight of the first sentence. This should clarify the intent that the location of a well proposed pursuant to this section may not be within a participating area for the specific formation to be tested.

Section 15. One commenter requested that the second paragraph be continued as an optional provision. The modified model agreement now in use has not included this as an optional provision for many years. Therefore, the suggestion is not adopted since the change merely brings the model agreement into consistency with actual practice.

Section 17. Several commenters recommended that the language proposed for deletion from the existing model in the regulations be reinserted. This language provided for the payment of compensatory royalty. Because protective wells have long been preferred over the payment of compensatory royalty, the language in question has not appeared in modified models used by the petroleum industry and the government for many years. We agree that since compensatory royalty is an alternative method of dealing with drainage, the section would be more complete with the inclusion of such an option. However, to show clearly that in most cases, protection will be provided by the drilling of a well, the language

inserted has been modified slightly from that proposed.

Section 18. The text of the proposed rulemaking printed in the Federal Register erroneously carried a line in paragraph (e) which was to appear in paragraph (b). This has been corrected. A few commenters reiterated their assertion that the provision shown as section 18(h) should be deleted from the model agreement. It is felt that this provision has been included in the model for many years without major problems. In response to comments received as a result of the previous Notice of Intent, the provision was changed to be an optional rather than required term. We believe this provides the flexibility desired by all concerned parties.

Section 20. The effective date of the unit agreement continues to be the date executed on behalf of the Department. The provision relating to voluntary termination during the first year is modified as noted in discussion of § 9. In addition, several commenters recommended including the time frame contained in the leasing regulations (Title 43 CFR) in paragraph 20(c). This recommendation has been adopted.

Section 28. One commenter requested that this provision be changed back to the current language dealing with effective date. This suggestion is not adopted. The language of this section was changed to provide that subsequent joinders to an agreement will be effective as of the date filed, unless otherwise provided in the agreement. The change from effective on the first day of the month following filing was made in accordance with the decision of the Interior Board of Land Appeals (IBLA) in the case of *Bruce Anderson*, 30 IBLA 179 (May 19, 1977). In that decision, the IBLA held that a subsequent joinder was effective on the date filed for the purpose of preserving a lease which would otherwise expire on the last day of the month. However, for determining the benefits and obligations under the unit agreement, some other more appropriate date may be provided in the agreement. We agree with the commenter that the first of the following month would be "* * * preferred, from an accounting viewpoint * * *," but we believe the new provision allows the parties the flexibility of making another date controlling as to the parties, while the filing date will control as to the lessor.

E.O. 12291 Federal Regulation

The Department of the Interior has determined that this document is not a major rule and does not require a regulatory analysis under Executive Order 12291 because the existing regulatory scheme was found to be basically sound and required only minor revision to incorporate approved modifications to current agreement and to eliminate unnecessary provisions. In addition, the revision of § 226.9 has reduced the number of copies of most documents submitted to the authorized officer. This will provide a minor duplicating cost savings for the approximately 150 unit filings made annually.

Regulatory Flexibility Act

The Department has also determined that the rulemaking will not have a significant economic effect on a substantial number of small entities, and does not require a regulatory flexibility analysis under the Regulatory Flexibility Act (5 U.S.C. 601 et seq.). The updating of 30 CFR 226 to more accurately reflect advances made in the past 30 years may result in some savings to those small operators and lessees who wish to enter into unit agreements.

Environmental Effects

It is hereby determined that this final rulemaking does not constitute a major Federal action significantly affecting the quality of the human environment and that no detailed statement pursuant to section 102(2)(C) of the National Environmental Policy Act of 1969 (42 U.S.C. 4332(2)(C)) is required.

Paperwork Reduction Act

Unit agreements which conform to the model set out in § 226.12 of these regulations are basically contracts between the private parties and not an information collection requirement. It is submitted to BLM for approval to insure that the rights granted to each lessee of a Federal or Indian lease and the rights of the lessor are not adversely impacted through the joining of such a lease to a unit plan of operations. All operations continue to be conducted under 30 CFR Part 221 and the information collection requirements of that section apply to the unitized operations as if the unit area were a single, consolidated lease. The model agreement does not constitute information collection as defined by 44 U.S.C. 3502 and, therefore, does not require OMB approval.

List of Subjects in 30 CFR Part 226

Government contracts, Oil and gas reserves, Public lands—mineral resources.

Under the authority of the Act of February 25, 1920, as amended and supplemented (30 U.S.C. 189, 226j), and Executive Order 12291 (46 FR 13193), Part 226, Chapter II, Title 30 of the Code of Federal Regulations is revised as set forth below.

Dated: May 10, 1983.

Garrey E. Carruthers,

Assistant Secretary of the Interior.

PART 226—ONSHORE OIL AND GAS UNIT AGREEMENTS

Sec.

226.1 Introduction and jurisdiction.
226.2 Definitions.
226.3 Designation of unit area; depth of test well.
226.4 Preliminary consideration of unit agreement.
226.5 Parties to unit agreement.
226.6 Qualifications of Unit Operator.
226.7 Inclusion of non-Federal lands.
226.8 Approval of unit agreement.
226.9 Filing of papers and number of counterparts.
226.10 Bonds.
226.11 Appeals.
226.12 Model onshore unit agreement for unproven areas.
226.13 Model Exhibit "A."
226.14 Model Exhibit "B."
226.15 Model collective bond.
226.16 Model for designation of successor unit operator by working interest owners.
226.17 Model for change in unit operator by assignment.

Authority: The Act of February 25, 1920 (30 U.S.C. 181, 189, 226(e), 226(j)), as amended.

§ 226.1 Introduction and jurisdiction.

(a) The regulations in this part prescribe the procedures to be followed and the requirements to be met by the owners of any right, title, or interest in Federal oil and gas leases (see § 226.2), and their representatives who wish to unite with each other, or jointly or separately with others, in collectively adopting and operating under a unit plan for the development of any oil or gas pool, field, or like area, or any part thereof. All unit operations on Federal leases are subject to the regulations contained in 30 CFR Part 221, Onshore Oil and Gas Operations. All unit operations on non-Federal lands included within Federal unit plans are subject to the reporting requirements of 30 CFR Part 221.

(b) Subject to the supervisory authority of the Secretary, the administration of the regulations in this part shall be under the jurisdiction of the Authorized Officer (AO). In the exercise of his jurisdiction, the AO shall be subject to the direction and supervisory authority of the Director, Bureau of Land Management, who may exercise the jurisdiction of the AO.

§ 226.2 Definitions.

The following terms, as used in this part or in any unit agreement approved under the regulations in this part, shall

have the meanings here indicated unless otherwise defined in such unit agreement:

Authorized officer (AO). Any employee of the Bureau of Land Management who has been delegated the authority to perform the duties described in this Part.

Director. The Director of the Bureau of Land Management or any person authorized to act on the Director's behalf.

Federal lease. A lease issued under the Act of February 25, 1920, as amended (30 U.S.C. 181, et seq.); the Act of May 21, 1930 (30 U.S.C. 351–359); the Act of August 7, 1947 (30 U.S.C. 351, et seq.); or the Act of November 16, 1981 (Pub. L. 97–98, 95 Stat. 1070).

Participating area. That part of a unit area which is considered reasonably proven to be productive in paying quantities or which is necessary for unit operations and to which production is allocated in the manner prescribed in the unit agreement.

Proper BLM office. The Bureau of Land Management office having jurisdiction over the lands subject to the regulation in this Part. When two or more offices have jurisdicition over the lands to be unitized, the "proper BLM office" shall be the office having jurisdiction over the majority of the unit area when the unit is formed.

Secretary. The Secretary of the Interior or any person duly authorized to exercise the powers vested in that officer.

Unit agreement (agreement). An agreement or plan for the development and operation which provides for the recovery of oil and/or gas from the lands made subject thereto, as a single consolidated entity without regard to separate ownerships and for the allocation of costs and benefits on a basis, as defined in the agreement or plan.

Unit area. The area described in an agreement as constituting the land logically subject to exploration and/or development under such agreement.

Unit operator. The person, association, partnership, corporation, or other business entity designated under a unit agreement to conduct operations on unitized land, as specified in such agreement.

Unitized land. Those lands within a unit area which are committed to an approved agreement or plan.

Unitized substances. Deposits of oil and gas contained in the unitized land which are recoverable in paying quantities by operation under and pursuant to an agreement.

Working interest. An interest held in unitized substances or in lands containing the same by virtue of a lease, operating agreement, fee title, or otherwise, under which, except as otherwise provided in the agreement, the owner of such interest is vested with the right to explore for, develop, and produce such substances. The rights delegated to the unit operator by the unit agreement are not regarded as a working interest.

§ 226.3 Designation of unit area; depth of test well.

An application for designation of an area as logically subject to development under a unit agreement and for determination of the depth of a test well may be filed by a proponent of such an agreement at the proper BLM office. Such application shall be accompanied by a map or diagram on a scale of not less than 2 inches to 1 mile, outlining the area sought to be designated under this section. The Federal, State, Indian and privately owned land should be indicated by distinctive symbols or colors. Federal and Indian oil and gas leases and lease applications should be identified by lease serial numbers. Geologic information, including the results of any geophysical surveys, and any other available information showing that unitization is necessary and advisable in the public interest should be furnished. If requested, geologic, geophysical and other related information so furnished will be treated as confidential in accordance with the provisions of 30 CFR 221.33. These data will be considered by the AO and the applicant will be informed of the decision reached. The designation of an area, pursuant to an application filed under this section, shall not create an exclusive right to submit an agreement for such area, nor preclude the inclusion of such area or any party thereof in another unit area.

§ 226.4 Preliminary consideration of unit agreement.

The model unit agreement set forth in § 226.12, is acceptable for use in unproven areas. Unique situations requiring special provisions should be clearly identified, since these and other special conditions may necessitate a modification of the model unit agreement set forth in § 226.12. Any proposed special provisions or other modifications of the model agreement should be submitted for preliminary consideration so that any necessary revision may be prescribed prior to execution by the interested parties. Where Federal lands constitute less than 10 percent of the total unit area, a non-Federal unit agreement may be used. Upon submission of such an agreement, the AO will take appropriate action to commit the Federal lands.

§ 226.5 Parties to unit agreement.

The owners of any right, title, or interest in the oil and gas deposits to be unitized are regarded as proper parties to a proposed agreement. All such parties must be invited to join the agreement. If any party fails or refuses to join the agreement, the proponent of the agreement, at the time it is filed for approval, must submit evidence of reasonable effort made to obtain joinder of such party and, when requested, the reasons for such nonjoinders. The address of each signatory party to the agreement should be inserted below the signature. Each signature should be attested by at least one witness if not notarized. The signing parties may execute any number of counterparts of the agreement with the same force and effect as if all parties signed the same document, or may execute a ratification or consent in a separate instrument with like force and effect.

§ 226.6 Qualification of unit operator.

A unit operator must qualify as to citizenship in the same manner as those holding interests in Federal oil and gas leases under the regulations at 43 CFR Group 3100. The unit operator may be an owner of a working interest in the unit area or such other party as may be selected by the owners of working interests. The unit operator shall execute an acceptance of the duties and obligations imposed by the agreement. No designation of or change in a unit operator will become effective until approved by the AO, and no such approval will be granted unless the successor unit operator is deemed qualified to fulfill the duties and obligations prescribed in the agreement.

§ 226.7 Inclusion of non-Federal lands.

(a) Where State-owned land is to be unitized with Federal lands, approval of the agreement by appropriate State officials must be obtained prior to its submission to the proper BLM office for final approval. When authorized by the laws of the State in which the unitized land is situated, appropriate provision may be made in the agreement, recognizing such laws to the extent that they are applicable to non-Federal unitized land.

(b) When Indian lands are included, modification of the unit agreement will be required where appropriate. Approval of an agreement containing Indian lands by the Bureau of Indian

Affairs must be obtained prior to final approval by the AO.

§ 226.8 Approval of unit agreement.

A unit agreement will be approved by the AO upon a determination that such agreement is necessary or advisable in the public interest and is for the purpose of more properly conserving natural resources. Such approval will be incorporated in a Certification-Determination document appended to the agreement (example in § 226.12). No such agreement will be approved unless the parties signatory to the agreement hold sufficient interests in the unit area to provide reasonably effective control of operations. Any modification of an approved agreement will require the prior approval of the AO.

§ 226.9 Filing of papers and number of counterparts.

(a) All papers, instruments, documents, and proposals submitted under this part should be filed in the proper BLM office.

(b) An application for designation of a proposed unit area and determination of the required depth of test well(s) shall be filed in duplicate. A like number of counterparts should be filed of any geologic data and any other information submitted in support of such application.

(c) Where a duly executed agreement is submitted for final approval, a minimum of four signed counterparts should be filed. The number of counterparts to be filed for supplementing, modifying, or amending an existing agreement, including change of unit operator, designation of new unit operator, establishment or revision of a participating area, and termination shall be prescribed by the AO.

(d) Two counterparts of a substantiating geologic report, including structure-contour map, cross sections, and pertinent data, shall accompany each application for approval of a participating area or revision thereof under an approved agreement.

(e) Three counterparts of all plans of development and operation shall be submitted for approval under an approved agreement.

(f) One approved counterpart of each instrument or document submitted for approval will be returned to the unit operator by the AO or his representative, together with such additional counterparts as may have been furnished by that purpose.

§ 226.10 Bonds.

In lieu of separate bonds required for each Federal lease committed to a unit agreement, the unit operator may furnish and maintain a collective corporate surety bond or a personal bond conditioned upon faithful performance of the duties and obligations of the agreement and the terms of the Federal leases subject thereto. Personal bonds shall be accompanied by a deposit of negotiable Federal securities in a sum equal at their par value to the amount of the bonds, and by a proper conveyance to the Secretary of full authority to sell such securities in case of default in the performance of the obligations assumed. The liability under the bond shall be for such amount as the AO shall determine to be adequate to protect the interests of the United States, and additional bond may be required whenever deemed necessary. The bond shall be filed with the AO. A form of corporate surety bond is set forth in § 226.15. In case of change of unit operator, a new bond must be filed or consent of surety to such change of unit operator must be furnished.

§ 226.11 Appeals.

A technical and procedural review may be requested pursuant to 30 CFR 221.72 and/or an appeal may be taken as provided in 30 CFR Part 290 of this chapter from any order or decision issued under the regulations in this part.

§ 226.12 Model onshore unit agreement for unproven areas.

Introductory Section
Section 1 ENABLING ACT AND REGULATIONS.
Section 2 UNIT AREA.
Section 3 UNITIZED LAND AND UNITIZED SUBSTANCES.
Section 4 UNIT OPERATOR.
Section 5 RESIGNATION OR REMOVAL OF UNIT OPERATOR.
Section 6 SUCCESSOR UNIT OPERATOR.
Section 7 ACCOUNTING PROVISIONS AND UNIT OPERATING AGREEMENT.
Section 8 RIGHTS AND OBLIGATIONS OF UNIT OPERATOR.
Section 9 DRILLING TO DISCOVERY.
Section 10 PLAN OF FURTHER DEVELOPMENT AND OPERATION.
Section 11 PARTICIPATION AFTER DISCOVERY.
Section 12 ALLOCATION OF PRODUCTION.
Section 13 DEVELOPMENT OR OPERATION OF NONPARTICIPATING LAND OR FORMATIONS.
Section 14 ROYALTY SETTLEMENT.
Section 15 RENTAL SETTLEMENT.
Section 16 CONSERVATION.
Section 17 DRAINAGE.
Section 18 LEASES AND CONTRACTS CONFORMED AND EXTENDED.
Section 19 CONVENANTS RUN WITH LAND.
Section 20 EFFECTIVE DATE AND TERM.
Section 21 RATE OF PROSPECTING, DEVELOPMENT, AND PRODUCTION.
Section 22 APPEARANCES.
Section 23 NOTICES.
Section 24 NO WAIVER OF CERTAIN RIGHTS.
Section 25 UNAVOIDABLE DELAY.
Section 26 NONDISCRIMINATION.
Section 27 LOSS OF TITLE.
Section 28 NONJOINDER AND SUBSEQUENT JOINDER.
Section 29 COUNTERPARTS.
Section 30 SURRENDER.*
Section 31 TAXES.*
Section 32 NO PARTNERSHIP.*
Concluding Section IN WITNESS WHEREOF.
General Guidelines.
Certification—Determination.

UNIT AGREEMENT FOR THE DEVELOPMENT AND OPERATION OF THE

Unit area ———
County of ———
State of ———
No. ———

This agreement, entered into as of the ——— day of ———, 19— by and between the parties subscribing, ratifying, or consenting hereto, and herein referred to as the "parties hereto,"

WITNESSETH:

WHEREAS, the parties hereto are the owners of working, royalty, or other oil and gas interests in the unit area subject to this agreement; and

WHEREAS, the Mineral Leasing Act of February 25, 1920, 41 Stat. 437, as amended, 30 U.S.C. Sec. 181 et seq., authorizes Federal lessees and their representatives to units with each other, or jointly or separately with others, in collectively adopting and operating a unit plan of development or operations of any oil and gas pool, field, or like area, or any part thereof for the purpose of more properly conserving the natural resources thereof whenever determined and certified by the Secretary of the Interior to be necessary or advisable in the public interest; and

WHEREAS, the parties hereto hold sufficient interests in the ———— Unit Area covering the land hereinafter described to give reasonably effective control of operations therein; and

WHEREAS, it is the purpose of the parties hereto to conserve natural resources, prevent waste, and secure other benefits obtainable through development and operation of the area subject to this agreement under the terms, conditions, and limitations herein set forth;

NOW, THEREFORE, in consideration of the premises and the promises herein contained, the parties hereto commit to this agreement their respective interests in the below-defined unit area, and agree severally among themselves as follows:

1. ENABLING ACT AND REGULATIONS. The Mineral Leasing Act of February 25, 1920, as amended, supra, and all valid pertinent regulations including operating and unit plan regulations, heretofore issued thereunder or valid, pertinent, and reasonable regulations hereafter issued thereunder are accepted and made a part of this agreement as to Federal lands, provided such regulations are not

* Optional sections (in addition the penultimate paragraph of Section 9 is to be included only when more than one obligation well is required and paragraph (h) of section 18 is to be used only when applicable).

inconsistent with the terms of this agreement; and as to non-Federal lands, the oil and gas operating regulations in effect as of the effective date hereof governing drilling and producing operations, not inconsistent with the terms hereof or the laws of the State in which the non-Federal land is located, are hereby accepted and made a part of this agreement.

2. UNIT AREA. The area specified on the map attached hereto marked Exhibit A is hereby designated and recognized as constituting the unit area, containing ——— acres, more or less.

Exhibit A shows, in addition to the boundary of the unit area, the boundaries and identity of tracts and leases in said area to the extent known to the Unit Operator. Exhibit B attached hereto is a schedule showing to the extent known to the Unit Operator, the acreage, percentage, and kind of ownership of oil and gas interests in all lands in the unit area. However, nothing herein or in Exhibits A or B shall be construed as a representation by any party hereto as to the ownership of any interest other than such interest or interests as are shown in the Exhibits as owned by such party. Exhibits A and B shall be revised by the Unit Operator whenever changes in the unit area or in the ownership interests in the individual tracts render such revision necessary, or when requested by the Authorized Officer, hereinafter referred to as AO and not less than four copies of the revised Exhibits shall be filed with the proper BLM office.

The above-described unit area shall when practicable be expanded to include therein any additional lands or shall be contracted to exclude lands whenever such expansion or contraction is deemed to be necessary or advisable to conform with the purposes of this agreement. Such expansion or contraction shall be effected in the following manner:

(a) Unit Operator, on its own motion (after preliminary concurrence by the AO), or on demand of the AO, shall prepare a notice of proposed expansion or contraction describing the contemplated changes in the boundaries of the unit area, the reasons therefore, any plans for additional drilling, and the proposed effective date of the expansion or contraction, preferably the first day of a month subsequent to the date of notice.

(b) Said notice shall be delivered to the proper BLM office, and copies thereof mailed to the last known address of each working interest owner, lessee and lessor whose interests are affected, advising that 30 days will be allowed for submission to the Unit Operator of any objections.

(c) Upon expiration of the 30-day period provided in the preceding item (b) hereof, Unit Operator shall file with the AO evidence of mailing of the notice of expansion or contraction and a copy of any objections thereto which have been filed with Unit Operator, together with an application in triplicate, for approval of such expansion or contraction and with appropriate joinders.

(d) After due consideration of all pertinent information, the expansion or contraction shall, upon approval by the AO, become effective as of the date prescribed in the notice thereof or such other appropriate date.

(e) All legal subdivisions of lands (i.e., 40 acres by Government survey or its nearest lot or tract equivalent; in instances of irregular surveys, unusually large lots or tracts shall be considered in multiples of 40 acres or the nearest aliquot equivalent thereof), no parts of which are in or entitled to be in a participating area on or before the fifth anniversary of the effective date of the first initial participating area established under this unit agreement, shall be eliminated automatically from this agreement, effective as of said fifth anniversary, and such lands shall no longer be a part of the unit area and shall no longer be subject to this agreement, unless diligent drilling operations are in progress on unitized lands not entitled to participation on said fifth anniversary, in which event all such lands shall remain subject hereto for so long as such drilling operations are continued diligently, with not more than 90-days time elapsing between the completion of one such well and the commencement of the next such well. All legal subdivisions of lands not entitled to be in a participating area within 10 years after the effective date of the first initial participating area approved under this agreement shall be automatically eliminated from this agreement as of said tenth anniversary. The Unit Operator shall, within 90 days after the effective date of any elimination hereunder, describe the area so eliminated to the satisfaction of the AO and promptly notify all parties in interest. All lands reasonably proved productive of unitized substances in paying quantities by diligent drilling operations after the aforesaid 5-year period shall become participating in the same manner as during said first 5-year period. However, when such diligent drilling operations cease, all nonparticipating lands not then entitled to be in a participating area shall be automatically eliminated effective as the 91st day thereafter.

Any expansion of the unit area pursuant to this section which embraces lands theretofore eliminated pursuant to this subsection 2(e) shall not be considered automatic commitment or recommitment of such lands. If conditions warrant extension of the 10-year period specified in this subsection, a single extension of not to exceed 2 years may be accomplished by consent of the owners of 90 percent of the working interest in the current nonparticipating unitized lands and the owners of 60 percent of the basic royalty interests (exclusive of the basic royalty interests of the United States) in nonparticipating unitized lands with approval of the AO, provided such extension application is submitted not later than 60 days prior to the expiration of said 10-year period.

3. UNITIZED LAND AND UNITIZED SUBSTANCES. All land now or hereafter committed to this agreement shall constitute land referred to herein as "unitized land" or "land subject to this agreement." All oil and gas in any and all formations of the unitized land are unitized under the terms of this agreement and herein are called "unitized substances."

4. UNIT OPERATOR. ——— is hereby designated as Unit Operator and by signature hereto as Unit Operator agrees and consents to accept the duties and obligations of Unit Operator for the discovery, development, and production of unitized substances as herein provided. Whenever reference is made herein to the Unit Operator, such reference means the Unit Operator acting in that capacity and not as an owner of interest in unitized substances, and the term "working interest owner" when used herein shall include or refer to Unit Operator as the owner of a working interest only when such an interest is owned by it.

5. RESIGNATION OR REMOVAL OF UNIT OPERATOR. Unit Operator shall have the right to resign at any time prior to the establishment of a participating area or areas hereunder, but such resignation shall not become effective so as to release Unit Operator from the duties and obligations of Unit Operator and terminate Unit Operator's rights as such for a period of 6 months after notice of intention to resign has been served by Unit Operator on all working interest owners and the AO and until all wells then drilled hereunder are placed in a satisfactory condition for suspension or abandonment, whichever is required by the AO, unless a new Unit Operator shall have been selected and approved and shall have taken over and assumed the duties and obligations of Unit Operator prior to the expiration of said period.

Unit Operator shall have the right to resign in like manner and subject to like limitations as above provided at any time after a participating area established hereunder is in existence, but in all instances of resignation or removal, until a successor Unit Operator is selected and approved as hereinafter provided, the working interest owners shall be jointly responsible for performance of the duties of Unit Operator, and shall not later than 30 days before such resignation or removal becomes effective appoint a common agent to represent them in any action to be taken hereunder.

The resignation of Unit Operator shall not release Unit Operator from any liability for any default by it hereunder occurring prior to the effective date of its resignation.

The Unit Operator may, upon default or failure in the performance of its duties or obligations hereunder, be subject to removal by the same percentage vote of the owners of working interests as herein provided for the selection of a new Unit Operator. Such removal shall be effective upon notice thereof to the AO.

The resignation or removal of Unit Operator under this agreement shall not terminate its right, title, or interest as the owner of working interest or other interest in unitized substances, but upon the resignation or removal of Unit Operator becoming effective, such Unit Operator shall deliver possession of all wells, equipment, materials, and appurtenances used in conducting the unit operations to the new duly qualified successor Unit Operator or to the common agent, if no such new Unit Operator is selected, elected, to be used for the purpose of conducting unit operations hereunder. Nothing herein shall be construed as authorizing removal of any material,

equipment, or appurtenances needed for the preservation of any wells.

6. SUCCESSOR UNIT OPERATOR. Whenever the Unit Operator shall tender his or its resignation as Unit Operator or shall be removed as hereinabove provided, or a change of Unit Operator is negotiated by the working interest owners, the owners of the working interests according to their respective acreage interests in all unitized land shall, pursuant to the Approval of the Parties requirements of the unit operating agreement, select a successor Unit Operator. Such selection shall not become effective until:

(a) a Unit Operator so selected shall accept in writing the duties and responsibilities of Unit Operator, and

(b) the selection shall have been approved by the AO.

If no successor Unit Operator is selected and qualified as herein provided, the AO at his election may declare this unit agreement terminated.

7. ACCOUNTING PROVISIONS AND UNIT OPERATING AGREEMENT. If the Unit Operator is not the sole owner of working interests, costs and expenses incurred by Unit Operator in conducting unit operations hereunder shall be paid and apportioned among and borne by the owners of working interests, all in accordance with the agreement or agreements entered into by and between the Unit Operator and the owners of working interests, whether one or more, separately or collectively. Any agreement or agreements entered into between the working interest owners and the Unit Operator as provided in this section, whether one or more, are herein referred to as the "unit operating agreement." Such unit operating agreement shall also provide the manner in which the working interest owners shall be entitled to receive their respective proportionate and allocated share of the benefits accruing hereto in conformity with their underlying operating agreements, leases, or other independent contracts, and such other rights and obligations as between Unit Operator and the working interest owners as may be agreed upon by Unit Operator and the working interest owners; however, no such unit operating agreement shall be deemed either to modify any of the terms and conditions of this unit agreement or to relieve the Unit Operator of any right or obligation established under this unit agreement, and in case of any inconsistency or conflict between this agreement and the unit operating agreement, this agreement shall govern. Two copies of any unit operating agreement executed pursuant to this section shall be filed in the proper BLM office prior to approval of this unit agreement.

8. RIGHTS AND OBLIGATIONS OF UNIT OPERATOR. Except as otherwise specifically provided herein, the exclusive right, privilege, and duty of exercising any and all rights of the parties hereto which are necessary or convenient for prospecting for, producing, storing, allocating, and distributing the unitized substances are hereby delegated to and shall be exercised by the Unit Operator as herein provided. Acceptable evidence of title to said rights shall be deposited with Unit Operator and, together with this agreement, shall constitute and define the rights, privileges, and obligations of Unit Operator. Nothing herein, however, shall be construed to transfer title to any land or to any lease or operating agreement, it being understood that under this agreement the Unit Operator, in its capacity as Unit Operator, shall exercise the rights of possession and use vested in the parties hereto only for the purposes herein specified.

9. DRILLING TO DISCOVERY. Within 6 months after the effective date hereof, the Unit Operator shall commence to drill an adequate test well at a location approved by the AO, unless on such effective date a well is being drilled in conformity with the terms hereof, and thereafter continue such drilling diligently until the ——— formation has been tested or until at a lesser depth unitized substances shall be discovered which can be produced in paying quantities (to wit: quantities sufficient to repay the costs of drilling, completing, and producing operations, with a reasonable profit) or the Unit Operator shall at any time establish to the satisfaction of the AO that further drilling of said well would be unwarranted or impracticable, provided, however, that Unit Operator shall not in any event be required to drill said well to a depth in excess of —— feet. Until the discovery of unitized substances capable of being produced in paying quantities, the Unit Operator shall continue drilling one well at a time, allowing not more than 6 months between the completion of one well and the commencement of drilling operations for the next well, until a well capable of producing unitized substances in paying quantities is completed to the satisfaction of the AO or until it is reasonably proved that the unitized land is incapable of producing unitized substances in paying quantities in the formations drilled hereunder. Nothing in this section shall be deemed to limit the right of the Unit Operator to resign as provided in Section 5, hereof, or as requiring Unit Operator to commence or continue any drilling during the period pending such resignation becoming effective in order to comply with the requirements of this section.

The AO may modify any of the drilling requirements of this section by granting reasonable extensions of time when, in his opinion, such action is warranted.

** Multiple well requirements. Notwithstanding anything in this unit agreement to the contrary, except Section 25, UNAVOIDABLE DELAY, —— wells shall be drilled with not more than 6-months time elapsing between the completion of the first well and commencement of drilling operations for the second well and with not more than 6-months time elapsing between completion of the second well and the commencement of drilling operations for the third well, . . . regardless of whether a discovery has been made in any well drilled under this provision. Both the initial well and the second well must be drilled in compliance with the above specified formation or depth requirements in order to meet the dictates of this section; and the second well must be located a minimum of —— miles from the initial well in order to be accepted by the AO as the second unit test well, within the meaning of this section. The third test well shall be diligently drilled, at a location approved by the AO, to test the ——— formation or to a depth of —— feet, whichever is the lesser, and must be located a minimum of —— miles from both the initial and the second test wells. Nevertheless, in the event of the discovery of unitized substances in paying quantities by any well, this unit agreement shall not terminate for failure to complete the ——— well program, but the unit area shall be contracted automatically, effective the first day of the month following the default, to eliminate by subdivisions (as defined in Section 2(e) hereof) all lands not then entitled to be in a participating area.**

Upon failure to commence any well as provided for in this (these) section(s) within the time allowed, prior to the establishment of a participating area, including any extension of time granted by the AO, this agreement will automatically terminate. Upon failure to continue drilling diligently any well commenced hereunder, the AO may, after 15-days notice to the Unit Operator, declare this unit agreement terminated. The parties to this agreement may not initiate a request to voluntarily terminate this agreement during the first 6 months of its term unless at least one obligation well has been drilled in accordance with the provisions of this section.

10. PLAN OF FURTHER DEVELOPMENT AND OPERATION. Within 6 months after completion of a well capable of producing unitized substances in paying quantities, the Unit Operator shall submit for the approval of the AO an acceptable plan of development and operation for the unitized land which, when approved by the DMM, shall constitute the further drilling and development obligations of the Unit Operator under this agreement for the period specified therein. Thereafter, from time to time before the expiration of any existing plan, the Unit Operator shall submit for the approval of the AO a plan for an additional specified period for the development and operation of the unitized land. Subsequent plans should normally be filed on a calender year basis not later than March 1 each year. Any proposed modification or addition to the existing plan should be filed as a supplement to the plan.

Any plan submitted pursuant to this section shall provide for the timely exploration of the unitized area, and for the diligent drilling necessary for determination of the area or areas capable of producing unitized substances in paying quantities in each and every productive formation. This plan shall be as complete and adequate as the AO may determine to be necessary for timely development and proper conservation of the oil and gas resources in the unitized area and shall:

(a) Specify the number and locations of any wells to be drilled and the proposed order and time for such drilling; and

(b) Provide a summary of operations and production for the previous year.

**Provisions to be included only when a multiple well obligation is required.

Plans shall be modified or supplemented when necessary to meet changed conditions or to protect the interests of all parties to this agreement. Reasonable diligence shall be exercised in complying with the obligations of the approved plan of development and operation. The AO is authorized to grant a reasonable extension of the 6-month period herein prescribed for submission of an initial plan of development and operation where such action is justified because of unusual conditions or circumstances.

After completion of a well capable of producing unitized substances in paying quantities, no further wells, except such as may be necessary to afford protection against operations not under this agreement and such as may be specifically approved by the AO, shall be drilled except in accordance with an approved plan of development and operation.

11. PARTICIPATION AFTER DISCOVERY. Upon completion of a well capable of producing unitized substances in paying quantities, or as soon thereafter as required by the AO, the Unit Operator shall submit for approval by the AO, a schedule, based on subdivisions of the public-land survey or aliquot parts thereof, of all land then regarded as reasonably proved to be productive of unitized substances in paying quantities. These lands shall constitute a participating area on approval of the AO, effective as of the date of completion of such well or the effective date of this unit agreement, whichever is later. The acreages of both Federal and non-Federal lands shall be based upon appropriate computations from the courses and distances shown on the last approved public-land survey as of the effective date of each initial participating area. The schedule shall also set forth the percentage of unitized substances to be allocated, as provided in Section 12, to each committed tract in the participating area so established, and shall govern the allocation of production commencing with the effective date of the participating area. A different participating area shall be established for each separate pool or deposit of unitized substances or for any group thereof which is produced as a single pool or zone, and any two or more participating areas so established may be combined into one, on approval of the AO. When production from two or more participating areas is subsequently found to be from a common pool or deposit, the participating areas shall be combined into one, effective as of such appropriate date as may be approved or prescribed by the AO. The participating area or areas so established shall be revised from time to time, subject to the approval of the AO, to include additional lands then regarded as reasonably proved to be productive of unitized substances in paying quantities or which are necessary for unit operations, or to exclude lands then regarded as reasonably proved not to be productive of unitized substances in paying quantities, and the schedule of allocation percentages shall be revised accordingly. The effective date of any revision shall be the first of the month in which the knowledge or information is obtained on which such revision is predicated; provided, however, that a more appropriate effective date may be used if justified by Unit Operator and approved by the AO. No land shall be excluded from a participating area on account of depletion of its unitized substances, except that any participating area established under the provisions of this unit agreement shall terminate automatically whenever all completions in the formation on which the participating area is based are abandoned.

It is the intent of this section that a participating area shall represent the area productive of unitized substances known or reasonably proved to be productive in paying quantities or which are necessary for unit operations; but, regardless of any revision of the participating area, nothing herein contained shall be construed as requiring any retroactive adjustment for production obtained prior to the effective date of the revision of the participating area.

In the absence of agreement at any time between the Unit Operator and the AO as to the proper definition or redefinition of a participating area, or until a participating area has, or areas have, been established, the portion of all payments affected thereby shall, except royalty due the United States, be impounded in a manner mutually acceptable to the owners of committed working interests. Royalties due the United States shall be determined by the AO and the amount thereof shall be deposited, as directed by the AO, until a participating area is finally approved and then adjusted in accordance with a determination of the sum due as Federal royalty on the basis of such approved participating area.

Whenever it is determined, subject to the approval of the AO, that a well drilled under this agreement is not capable of production of unitized substances in paying quantities and inclusion in a participating area of the land on which it is situated in a participating area is unwarranted, production from such well shall, for the purposes of settlement among all parties other than working interest owners, be allocated to the land on which the well is located, unless such land is already within the participating area established for the pool or deposit from which such production is obtained. Settlement for working interest benefits from such a nonpaying unit well shall be made as provided in the unit operating agreement.

12. ALLOCATION OF PRODUCTION. All unitized substances produced from each participating area established under this agreement, except any part thereof used in conformity with good operating practices within the unitized area for drilling, operating, and other production or development purposes, for repressuring or recycling in accordance with a plan of development and operations which has been approved by the AO, or unavoidably lost, shall be deemed to be produced equally on an acreage basis from the several tracts of unitized land of the participating area established for such production. For the purpose of determining any benefits accruing under this agreement, each such tract of unitized land shall have allocated to it such percentage of said production as the number of acres of such tract included in said participating area bears to the total acres of unitized land in said participating area, except that allocation of production hereunder for purposes other than for settlement of the royalty, overriding royalty, or payment out of production obligations of the respective working interest owners, shall be on the basis prescribed in the unit operating agreement whether in conformity with the basis of allocation herein set forth or otherwise. It is hereby agreed that production of unitized substances from a participating area shall be allocated as provided herein regardless of whether any wells are drilled on any particular part or tract of the participating area. If any gas produced from one participating area is used for repressuring or recycling purposes in another participating area, the first gas withdrawn from the latter participating area for sale during the life of this agreement, shall be considered to be the gas so transferred, until an amount equal to that transferred shall be so produced for sale and such gas shall be allocated to the participating area from which initially produced as such area was defined at the time that such transferred gas was finally produced and sold.

13. DEVELOPMENT OR OPERATION OF NONPARTICIPATING LAND OR FORMATIONS. Any party hereto owning or controlling the working interest in any unitized land having thereon a regular well location may with the approval of the AO, at such party's sole risk, costs, and expense, drill a well to test any formation provided the well is outside any participating area established for that formation, unless within 90 days of receipt of notice from said party of his intention to drill the well, the Unit Operator elects and commences to drill the well in a like manner as other wells are drilled by the Unit Operator under this agreement.

If any well drilled under this section by a working interest owner results in production of unitized substances in paying quantities such that the land upon which it is situated may properly be included in a participating area, such participating area shall be established or enlarged as provided in this agreement and the well shall thereafter be operated by the Unit Operator in accordance with the terms of this agreement and the unit operating agreement.

If any well drilled under this section by a working interest owner that obtains production in quantities insufficient to justify the inclusion of the land upon which such well is situated in a participating area, such well may be operated and produced by the party drilling the same, subject to the conservation requirements of this agreement. The royalties in amount or value of production from any such well shall be paid as specified in the underlying lease and agreements affected.

14. ROYALTY SETTLEMENT. The United States and any State and any royalty owner who is entitled to take in kind a share of the substances now unitized hereunder shall be hereafter be entitled to the right to take in kind its share of the unitized substances, and Unit Operator, or the working interest owner in case of the operation of a well by a working interest owner as herein provided for in special cases, shall make deliveries of

such royalty share taken in kind in conformity with the applicable contracts, laws, and regulations. Settlement for royalty interest not taken in kind shall be made by working interest owners responsible therefor under existing contracts, laws and regulations, or by the Unit Operator on or before the last day of each month for unitized substances produced during the preceding calendar month; provided, however, that nothing in this section shall operate to relieve the lessees of any land from their respective lease obligations for the payment of any royalties due under their leases.

If gas obtained from lands not subject to this agreement is introduced into any participating area hereunder, for use in repressuring, stimulation of production, or increasing ultimate recovery, in conformity with a plan of development and operation approved by the AO, a like amount of gas, after settlement as herein provided for any gas transferred from any other participating area and with appropriate deduction for loss from any cause, may be withdrawn from the formation into which the gas is introduced, royalty free as to dry gas, but not as to any products which may be extracted therefrom; provided that such withdrawal shall be at such time as may be provided in the approved plan of development and operation or as may otherwise be consented to by the AO as conforming to good petroleum engineering practice; and provided further, that such right of withdrawal shall terminate on the termination of this unit agreement.

Royalty due the United States shall be computed as provided in 30 CFR Part 221 and paid in value or delivered in kind as to all unitized substances on the basis of the amounts thereof allocated to unitized Federal land as provided in Section 12 at the rates specified in the respective Federal leases, or at such other rate or rates as may be authorized by law or regulation and approved by the AO; provided, that for leases on which the royalty rate depends on the daily average production per well, said average production shall be determined in accordance with the operating regulations as though each participating area were a single consolidated lease.

15. RENTAL SETTLEMENT. Rental or minimum royalties due on leases committed hereto shall be paid by appropriate working interest owners under existing contracts, laws, and regulations, provided that nothing herein contained shall operate to relieve the leases of any land from their respective lessees obligations for the payment of any rental or minimum royalty due under their leases. Rental or minimum royalty for lands of the United States subject to this agreement shall be paid at the rate specified in the respective leases from the United States unless such rental or minimum royalty is waived, suspended, or reduced by law or by approval of the Secretary or his duly authorized representative.

With respect to any lease on non-Federal land containing provisions which would terminate such lease unless drilling operations are commenced upon the land covered thereby within the time therein specified or rentals are paid for the privilege of deferring such drilling operations, the rentals required thereby shall, notwithstanding any other provision of this agreement, be deemed to accure and become payable during the term thereof as extended by this agreement and until the required drilling operations are commenced upon the land covered thereby, or until some portion of such land is included within a participating area.

16. CONSERVATION. Operations hereunder and production of unitized substances shall be conducted to provide for the most economical and efficient recovery of said substances without waste, as defined by or pursuant to State or Federal law or regulation.

17. DRAINAGE. The Unit Operator shall take such measures as the AO deems appropriate and adequate to prevent drainage of unitized substances from unitized land by wells on land not subject to this agreement, which shall include the drilling of protective wells and which may include the payment of a fair and reasonable compensatory royalty, as determined by the AO.

18. LEASES AND CONTRACTS CONFORMED AND EXTENDED. The terms, conditions, and provisions of all leases, subleases, and other contracts relating to exploration, drilling, development or operation for oil or gas on lands committed to this agreement are hereby expressly modified and amended to the extent necessary to make the same conform to the provisions hereof, but otherwise to remain in full force and effect; and the parties hereto hereby consent that the Secretary shall and by his approval hereof, or by the approval hereof by his duly authorized representative, does hereby establish, alter, change, or revoke the drilling, producing, rental minimum royalty, and royalty requirements of Federal leases committed hereto and the regulations in respect thereto to conform said requirements to the provisions of this agreement, and, without limiting the generality of the foregoing, all leases, subleases, and contracts are particularly modified in accordance with the following:

(a) The development and operation of lands subject to this agreement under the terms hereof shall be deemed full performance of all obligations for development and operation with respect to each and every separately owned tract subject to this agreement, regardless of whether there is any development of any particular tract of this unit area.

(b) Drilling and producing operations performed hereunder upon any at the time, such lease shall be extended for 2 years, and so tract of unitized lands will be accepted and deemed to be performed upon and for the benefit of each and every tract of unitized land, and no lease shall be deemed to expire by reason of failure to drill or produce wells situated on the land therein embraced.

(c) Suspension of drilling or producing operations on all unitized lands pursuant to direction or consent of the AO shall be deemed to constitute such suspension pursuant to such direction or consent as to each and every tract of unitized land. A suspension of drilling or producing operations limited to specified lands shall be applicable only to such lands.

(d) Each lease, sublease, or contract relating to the exploration, drilling, development, or operation for oil or gas of lands other than those of the United States committed to this agreement which, by its terms might expire prior to the termination of this agreement, is hereby extended beyond any such term so provided therein so that it shall be continued in full force and effect for and during the term of this agreement.

(e) Any Federal lease committed hereto shall continue in force beyond the term so provided therein or by law as to the land committed so long as such lease remains subject hereto, provided that production of unitized substances in paying quantities is established in paying quantities under this unit agreement prior to the expiration date of the term of such lease, or in the event actual drilling operations are commenced on unitized land, in accordance with provisions of this agreement, prior to the end of the primary term of such lease and are being diligently prosecuted at that time, such lease shall be extended for 2 years, and so long thereafter as oil or gas is produced in paying quantities in accordance with the provisions of the Mineral Leasing Act, as amended.

(f) Each sublease or contract relating to the operation and development of unitized substances from lands of the United States committed to this agreement, which by its terms would expire prior to the time at which the underlying lease, as extended by the immediately preceding paragraph, will expire is hereby extended beyond any such term so provided therein so that it shall be continued in full force and effect for and during the term of the underlying lease as such term is herein extended.

(g) The segregation of any Federal lease committed to this agreement is governed by the following provision in the fourth paragraph of sec. 17(j) of the Mineral Leasing Act, as amended by the Act of September 2, 1960 (74 Stat. 781–784) (30 U.S.C. 226(j)):

"Any [Federal] lease heretofore or hereafter committed to any such [unit] plan embracing lands that are in part within and in part outside of the area covered by any such plan shall be segregated into separate leases as to the lands committed and the lands not committed as of the effective date of unitization: *Provided, however,* That any such lease as to the nonunitized portion shall continue in force and effect for the term thereof but for not less than two years from the date of such segregation and so long thereafter as oil or gas is produced in paying quantities."

*(h) Any lease, other than a Federal lease, having only a portion of its lands committed hereto shall be segregated as to the portion committed and the portion not committed, and the provisions of such lease shall apply separately to such segregated portions commencing as of the effective date hereof. In the event any such lease provides for a lump-sum rental payment, such payment shall be prorated between the portions so segregated in proportion to the acreage of the respective tracts.

* Optional paragraph to be used only when applicable.

19. CONVENANTS RUN WITH LAND. The covenants herein shall be construed to be covenants running with the land with respect to the interests of the parties hereto and their successors in interest until this agreement terminates, and any grant, transfer or conveyance of interest in land or leases subject hereto shall be and hereby is conditioned upon the assumption of all privileges and obligations hereunder by the grantee, transferee, or other successor in interest. No assignment or transfer of any working interest, royalty, or other interest subject hereto shall be binding upon Unit Operator until the first day of the calendar month after Unit Operator is furnished with the original, photostatic, or certified copy of the instrument of transfer.

20. EFFECTIVE DATE AND TERM. This agreement shall become effective upon approval by the AO and shall automatically terminate 5 years from said effective date unless:

(a) upon application by the Unit Operator such date of expiration is extended by the AO, or

(b) it is reasonably determined prior to the expiration of the fixed term or any extension thereof that the unitized land is incapable of production of unitized substances in paying quantities in the formations tested hereunder, and after notice of intention to terminate this agreement on such ground is given by the Unit Operator to all parties in interest at their last known addresses, this agreement is terminated with the approval of the AO, or

(c) a valuable discovery of unitized substances in paying quantities has been made or accepted on unitized land during said initial term or any extension thereof, in which event this agreement shall remain in effect for such term and so long thereafter as unitized substances can be produced in quantities sufficient to pay for the cost of producing same from wells on unitized land within any participating area established hereunder. Should production cease and diligent drilling operations to restore production or new production are not in progress or reworking within 60 days and production is not restored or should new production not be obtained in paying quantities on committed lands within this unit area, this agreement will automatically terminate effective the last day of the month in which the last unitized production occurred, or

(d) it is voluntarily terminated as provided in this agreement. Except as noted herein, this agreement may be terminated at any time prior to the discovery of unitized substances which can be produced in paying quantities by not less than 75 per centum, on an acreage basis, of the working interest owners signatory hereto, with the approval of the AO. The Unit Operator shall give notice of any such approval to all parties herto. Voluntary termination may not occur during the first 6 months of this agreement unless at least one obligation well shall have been drilled in conformance accordance with Section 9.

21. RATE OF PROSPECTING, DEVELOPMENT, AND PRODUCTION. The AO is hereby vested with authority to alter or modify from time to time, in his discretion, the quantity and rate of production under this agreement when such quantity and rate are not fixed pursuant to Federal or State law, or do not conform to any Statewide voluntary conservation or allocation program which is established, recognized, and generally adhered to by the majority of operators in such State. The above authority is hereby limited to alteration or modifications which are in the public interest. The public interest to be served and the purpose thereof, must be stated in the order of alteration or modification. Without regard to the foregoing, the AO is also hereby vested with authority to alter or modify from time to time, in his discretion, the rate of prospecting and development and the quantity and rate of production under this agreement when such alteration or modification is in the interest of attaining the conservation objectives stated in this agreement and is not in violation of any applicable Federal or State law.

Powers is the section vested in the AO shall only be exercised after notice to Unit Operator and opportunity for hearing to be held not less than 15 days from notice.

22. APPEARANCES. Unit Operators shall, after notice to other parties affected, have the right to appear for and on behalf of any and all interests affected hereby before the Department of the Interior and to appeal from orders issued under the regulations of said Department, or to apply for relief from any of said regulations, or in any proceedings relative to operations before the Department, or any other legally constituted authority; provided, however, that any other interested party shall also have the right at its own expense to be heard in any such proceeding.

23. NOTICES. All notices, demands, or statements required hereunder to be given or rendered to the parties hereto shall be in writing and shall be personally delivered to the party or parties, or sent by postpaid registered or certified mail, to the last-known address of the party or parties.

24. NO WAIVER OF CERTAIN RIGHTS. Nothing contained in this agreement shall be construed as a waiver by any party hereto of the right to assert any legal or constitutional right or defense as to the validity or invalidity of any law of the State where the unitized lands are located, or of the United States, or regulations issued thereunder in any way affecting such party, or as a waiver by any such party of any right beyond his or its authority to waive.

25. UNAVOIDABLE DELAY. All obligations under this agreement requiring the Unit Operator to commence or continue drilling, or to operate on, or produce unitized substances from any of the lands covered by this agreement, shall be suspended while the Unit Operator, despite the exercise of due care and diligence, is prevented from complying with such obligations, in whole or in part, by strikes, acts of God, Federal, State, or municipal law or agencies, unavoidable accidents, uncontrollable delays in transportation, inability to obtain necessary materials or equipment in the open market, or other matters beyond the reasonable control of the Unit Operator, whether similar to matters herein enumerated or not.

26. NONDISCRIMINATION. In connection with the performance of work under this agreement, the Unit Operator agrees to comply with all the provisions of section 202 (1) to (7) inclusive, of Executive Order 11246 (30 FR 12319), as amended, which are hereby incorporated by reference in this agreement.

27. LOSS OF TITLE. In the event title to any tract of unitized land shall fail and the true owner cannot be induced to join in this unit agreement, such tract shall be automatically regarded as not committed hereto, and there shall be such readjustment of future costs and benefits as may be required on account of the loss of such title. In the event of a dispute as to title to any royalty, working interest, or other interests subject thereto, payment or delivery on account thereof may be withheld without liability for interest until the dispute is finally settled; provided, that, as to Federal lands or leases, no payments of funds due the United States shall be withheld, but such funds shall be deposited as directed by the AO, to be held as unearned money pending final settlement of the title dispute, and then applied as earned or returned in accordance with such final settlement.

Unit Operator as such is relieved from any responsibility for any defect or failure of any title hereunder.

28. NONJOINDER AND SUBSEQUENT JOINDER. If the owner of any substantial interest in a tract within the unit area fails or refuses to subscribe or consent to this agreement, the owner of the working interest in that tract may withdraw the tract from this agreement by written notice delivered to the proper BLM office and the Unit Operator prior to the approval of this agreement by the AO. Any oil or gas interests in lands within the unit area not committed hereto prior to final approval may thereafter be committed hereto by the owner or owners thereof subscribing or consenting to this agreement, and, if the interest is a working interest, by the owner of such interest also subscribing to the unit operating agreement. After operations are commenced hereunder, the right of subsequent joinder, as provided in this section, by a working interest owner is subject to such requirements or approval(s), if any, pertaining to such joinder, as may be provided for in the unit operating agreement. After final approval hereof, joinder by a nonworking interest owner must be consented to in writing by the working interest owner committed hereto and responsible for the payment of any benefits that may accrue hereunder in behalf of such nonworking interest. A nonworking interest may not be committed to this unit agreement unless the corresponding working interest is committed hereto. Joinder to the unit agreement by a working interest owner, at any time, must be accompanied by appropriate joinder to the unit operating agreement, in order for the interest to be regarded as committed to this agreement. Except as may otherwise herein be provided, subsequent joinders to this agreement shall be effective as of the date of the filing with the AO of duly executed counterparts of all or any papers necessary to establish effective commitment of any interest and/or tract to this agreement.

29. COUNTERPARTS. This agreement may be executed in any number of counterparts, no one of which needs to be executed by all parties, or may be ratified or consented to by separate instrument in writing specifically referring hereto and shall be binding upon all those parties who have executed such a counterpart, ratification, or consent hereto with the same force and effect as if all such parties had signed the same document, and regardless of whether or not it is executed by all other parties owning or claiming an interest in the lands within the above-described unit area.

*30. SURRENDER. Nothing in this agreement shall prohibit the exercise by any working interest owner of the right to surrender vested in such party by any lease, sublease, or operating agreement as to all or any part of the lands covered thereby, provided that each party who will or might acquire such working interest by such surrender or by forfeiture as hereafter set forth, is bound by the terms of this agreement.

If as a result of any such surrender, the working interest rights as to such lands become vested in any party other than the fee owner of the unitized substances, said party may forfeit such rights and further benefits from operations hereunder as to said land to the party next in the chain of title who shall be and become the owner of such working interest.

If as the result of any such surrender or forfeiture working interest rights become vested in the fee owner of the unitized substances, such owner may:

(a) accept those working interest rights subject to this agreement and the unit operating agreement; or

(b) lease the portion of such land as is included in a participating area established hereunder subject to this agreement and the unit operating agreement; or

(c) provide for the independent operation of any part of such land that is not then included within a participating area established hereunder.

If the fee owner of the unitized substances does not accept the working interest rights subject to this agreement and the unit operating agreement or lease such lands as above provided within 6 months after the surrendered or forfeited, working interest rights become vested in the fee owner; the benefits and obligations of operations accruing to such lands under this agreement and the unit operating agreement shall be shared by the remaining owners of unitized working interests in accordance with their respective working interest ownerships, and such owners of working interests shall compensate the fee owner of unitized substances in such lands by paying sums equal to the rentals, minimum royalties, and royalties applicable to such lands under the lease in effect when the lands were unitized.

An appropriate accounting and settlement shall be made for all benefits accruing to or payments and expenditures made or incurred on behalf of such surrendered or forfeited working interests subsequent to the date of surrender or forfeiture, and payment of any moneys found to be owing by such an accounting shall be made as between the parties within 30 days.

The exercise of any right vested in a working interest owner to reassign such working interest to the party from whom obtained shall be subject to the same conditions as set forth in this section in regard to the exercise of a right to surrender.

*31. TAXES. The working interest owners shall render and pay for their account and the account of the royalty owners all valid taxes on or measured by the unitized substances in and under or that may be produced, gathered and sold from the land covered by this agreement after its effective date, or upon the proceeds derived therefrom. The working interest owners on each tract shall and may charge the proper proportion of said taxes to royalty owners having interests in said tract, and may currently retain and deduct a sufficient amount of the unitized substances or derivative products, or net proceeds thereof, from the allocated share of each royalty owner to secure reimbursement for the taxes so paid. No such taxes shall be charged to the United States or the State of —— or to any lessor who has a contract with his lessee which requires the lessee to pay such taxes.

*32. NO PARTNERSHIP. It is expressly agreed that the relation of the parties hereto is that of independent contractors and nothing contained in this agreement, expressed or implied, nor any operations conducted hereunder, shall create or be deemed to have created a partnership or association between the parties hereto or any of them.

IN WITNESS WHEREOF, the parties hereto have caused this agreement to be executed and have set opposite their respective names the date of execution.

Unit Operator

Working Interest Owners

Other Interest Owners

General Guidelines

1. Executed agreement to be legally complete.

2. Agreement submitted for approval must contain Exhibit A and B in accordance with models shown in §§ 226.13 and 226.14.

3. Consents should be identified (in pencil) by tract numbers as listed in Exhibit B and assembled in that order as far as practical. Unit agreements submitted for approval shall include a list of the overriding royalty interest owners who have executed ratifications of the unit agreement. Subsequent joinders by overriding royalty interest owners shall be submitted in the same manner, except each must include or be accompanied by a statement that the corresponding working interest owner has consented in writing to such joinder. Original ratifications of overriding royalty owners will be kept on file by the Unit Operator or his designated agent.

4. All leases held by option should be noted on Exhibit B with an explanation as to the type of option, i.e., whether for operating rights only, for full leasehold record title, or for certain interests to be earned by performance. In all instances, optionee committing such interests is expected to exercise option promptly.

5. All owners of oil and gas interests must be invited to join the unit agreement, and statement to that effect must accompany executed agreement, together with summary of results of such invitations. A written reason for all interest owners who have not joined shall be furnished by the unit operator.

6. In the event fish and wildlife lands are included, add the following as a separate section:

"Wildlife Stipulation. Nothing in this unit agreement shall modify the special Federal lease stipulations applicable to lands under the jurisdiction of the United States Fish and Wildlife Service."

7. In the event National Forest System lands are included within the unit area, add the following as a separate section:

"Forest Land Stipulation. Notwithstanding any other terms and conditions contained in this agreement, all of the stipulations and conditions of the individual leases between the United States and its lessees or their successors or assigns embracing lands within the unit area included for the protection of lands or functions under the jurisdiction of the Secretary of Agriculture shall remain in full force and effect the same as though this agreement had not been entered into, and no modification thereof is authorized except with the prior consent in writing of the Regional Forester, United States Forest Service, ——,

8. In the event National Forest System lands within the Jackson Hole Area of Wyoming are included within the unit area, additional "special" stipulations may be required to be included in the unit agreement by the U.S. Forest Service, including the Jackson Hole Special Stipulation.

9. In the event reclamation lands are included, add the following as a new separate section:

"Reclamation Lands. Nothing in this agreement shall modify the special, Federal lease stipulations applicable to lands under the jurisdiction of the Bureau of Reclamation."

10. In the event a powersite is embraced in the proposed unit area, the following section should be added:

"Powersite. Nothing in this agreement shall modify the special, Federal lease stipulations applicable to lands under the jurisdiction of the Federal Energy Regulatory Commission."

11. In the event special surface stipulations have been attached to any of the Federal oil and gas leases to be included, add the following as a separate section:

"Special surface stipulations. Nothing in this agreement shall modify the special Federal lease stipulations attached to the individual Federal oil leases."

12. In the event State lands are included in the proposed unit area, add the appropriate State Lands Section as separate section. (See 30 CFR 226.7(a))

13. In the event restricted Indian lands are involved, consult the AO regarding

*Optional sections and subsection. (Agreements submitted for final approval should not identify section or provision as "optional.")

appropriate requirements under 30 CFR 226.7(b).

Certification—Determination

Pursuant to the authority vested in the Secretary of the Interior, under the act approved February 25, 1920, 41 Stat. 437, as amended, 30 U.S.C. sec. 181, et seq., and delegated to the appropriate (Name and Title of authorized officer, BLM) Service under the authority of 30 CFR 226, I do hereby:

A. Approve the attached agreement for the development and operation of the ———, Unit Area, State of ———.

B. Certify and determine that the unit plan of development and operation contemplated in the attached agreement is necessary and advisable in the public interest for the purpose of more properly conserving the natural resources.

C. Certify and determine that the drilling, producing, rental minimum royalty, and royalty requirements of all Federal lease committed to said agreement are hereby established altered, changed, or revoked to conform with the terms and conditions of this agreement.

Dated ———.

(Name and Title of authorized officer of the Bureau of Land Management)

BILLING CODE 4310-84-M

§226.13 ~~Model of Exhibit A.~~ Model Exhibit "A" 44

Company Name
Exhibit A
Swan Unit Area
Campbell County, Wyoming

R. 59 W.

DEER 6-30-88 16 (7) 78-620	FROST 6-30-81 15 (1) W - 8470	FROST 6-30-81 14 (1) W - 8470	DOE 5-31-82 (8) 13 J.C. Smith
FROST 6-30-85 21 (3) W - 41345	SMITH 5-31-82 22 (9) T.J. Cook	FROST 6-30-81 23 (1) W - 8470	HOLDER 2-28-86 (6) 24 W - 53970
FROST 6-30-85 28 (3) W - 41345	DEER et al. 27 (4) W - 41679	DEER 12-31-85 26 (5) W - 52780	HOLDER 2-28-86 (6) 25 DEER 12-31-85 (5) W - 52780
DEER et al. 6-30-85 33 (4) W - 41679	DEER 6-30-82 (10) 34 Aben, et al	DEER 7-30-81 35 (2) W - 9123	DEER 6-30-88 (7) 36 78 - 620

T. 54 N.

(1) Means tract number as listed on Exhibit B

Public Land

State Land

Patented Land

Scale - Generally 2" = 1 mile.

Include acreage for all irregular sections and lots.

§ 226.14 Model Exhibit "B"

EXHIBIT B—SWAN UNIT AREA, CAMPBELL COUNTY, WYOMING

Tract No.	Description of land	No. of acres	Serial No. and expiration date of lease	Basic royalty and ownership percentage	Lessee of record	Overriding royalty and percentage	Working interest and percentage
	All in the area of T54N-R59W, 6th P.M..						
	Federal Land						
1	Sec. 14: All	1,920.00	W-8470, 6-30-81	U.S.: All	T.J. Cook 100%	T.J. Cook 2%	Frost Oil Co. 100%.
	Sec. 15: All						
	Sec. 23: All						
2	Sec. 35: All	640.00	W-9123, 7-30-81	U.S.: All	O.M. Odom 100%	O.M. Odom 1%	Deer Oil Co. 100%.
3	Sec. 21: All	1,280.00	W-41345, 6-30-85	U.S.: All	Max Pen 50%	Max Pen 1%	Frost Oil Co. 100%.
	Sec. 28: All				Sam Small 50%	Sam Small 1%	
4	Sec. 27: All	1,280.00	W-41679, 6-30-85	U.S.: All	Al Preen 100%	Al Preen 2%	Deer Oil Co. 50%.
	Sec. 33: All						Deer Oil Co. 50%.
5	Sec. 26: All	961.50	W-52780	U.S.: All	Deer Oil Co. 100%	J.G. Goodin 2%	Deer Oil Co. 100%.
	Sec. 25: Lots 3,4, SW¼, W½SE¼						
6	Sec. 24: Lots 1,2,3,4,W½, W½E½ (All)	965.80	W-53970, 2-28-86	U.S.: All	T.H. Holder 100%		T.H. Holder 100%.
	Sec. 25: Lots 1,2,NW¼, W½NE/4						
	6 Federal tracts 7,047.30 acres or 68.76% of unit area.						
	State Land						
7	Sec. 16: All	1,280.60	65-67430, 8-31-85	State: All	Deer Oil Co. 100%	T.T. Timo 2%	Deer Oil Co. 100%.
	Sec. 36: Lots 1, 2, 3, 4, W½, W½E½ (All).						
	1 State tract 1,280.60 acres or 12.49% of unit area.						
	Patented Land						
8	Sec. 13: Lots 1, 2, 3, 4, W½, W½E½ (All).	641.20	8-2-74	J.C. Smith: 100%	Doe Oil Co. 100%		Doe Oil Co. 100%.
9	Sec. 22: All	640.00	9-15-76	T.J. Cook: 100%	W.W. Smith 100%	Sam Spade 1%	W.W. Smith 100%.
10	Sec. 34: All	640.00	6-1-75	A.A. Aben: 75%, L.P. Carr: 25%.	Deer Oil Co. 100%		Deer Oil Co. 100%.
	3 Patented tracts 1,921.20 acres or 18.75% of unit area.						

Total: 10 tracts 10,249.10 acres in entire unit area.

§ 226.15 Model collective bond.

Collective Corporate Surety Bond

Know all men by these presents. That we, ——— (Name of unit operator), signing as Principal, for and on behalf of the record owners of unitized substances now or hereafter covered by the unit agreement for the ——— (Name of unit), approved ——— (Date) ——— (Name and address of Surety), as Surety are jointly and severally held and firmly bound unto the United States of America in the sum of ——— (Amount of bond) Dollars, lawful money of the United States, for the use and benefit of and to be paid to the United States and any entryman or patentee of any portion of the unitized land here-to-fore entered or patented with the reservation of the oil or gas deposits to the United States, for which payment, well and truly to be made, we bind ourselves, and each of us, and each of our heirs, executors, administrators, successors, and assigns by these presents.

The condition of the foregoing obligation is such, that, whereas the Secretary of the Interior on ——— (Date) approved under the provisions of the Act of February 25, 1920, 41 Stat. 437, 30 U.S.C. secs. 181 *et seq.*, as amended by the Act of August 8, 1946, 60 Stat. 950, a unit agreement for the development and operation of the ——— (Name of unit and State); and

Whereas said Principal and record owners of unitized substances, pursuant to said unit agreement, have entered into certain covenants and agreements as set forth therein, under which operations are to be conducted; and

Whereas said Principal as Unit Operator has assumed the duties and obligations of the respective owners of unitized substances as defined in said unit agreement; and

Whereas said Principal and Surety agree to remain bound in the full amount of the bond for failure to comply with the terms of the unit agreement, and the payment of rentals, minimum royalties, and royalties due under the Federal leases committed to said unit agreement; and

Whereas the Surety hereby waives any right of notice of and agrees that this bond may remain in force and effect notwithstanding;

(a) Any additions to or change in the ownership of the unitized substances herein described;

(b) Any suspension of the drilling or producing requirements or waiver, suspension, or reduction of rental or minimum royalty payments or reduction of royalties pursuant to applicable laws or regulations thereunder; and

Whereas said Principal and Surety agree to the payment of compensatory royalty under the regulations of the Interior Department in lieu of drilling necessary offset wells in the event of drainage; and

Whereas nothing herein contained shall preclude the United States (from requiring an additional bond at any time when deemed necessary);

Now, therefore, if the said Principal shall faithfully comply with all of the provisions of the above-indentified unit agreement and with the terms of the leases committed thereto, then the above obligation is to be of no effect; otherwise to remain in full force and virtue.

Signed, sealed, and delivered this ——— day of ———, in the presence of:

Witnesses:

_____

(Principal)

_____

_____

_____

(Surety)

§ 226.16 Model for designation of successor unit operator by working interest owners.

Designation of successor Unit Operator ——— Unit Area, County of ———, State of ———. No. ———.

This indenture, dated as of the — day of ——, 19—, by and between ——, hereinafter designated as "First Party," and the owners of unitized working interests, hereinafter designated as "Second Parties."

Witnesseth: Whereas under the provisions of the Act of February 25, 1920, 41 Stat. 437, 30 U.S.C. secs. 181, *et seq.*, as amended by the Act of August 8, 1946, 60 Stat. 950, the Secretary of the Interior, on the ——— day of ———, 19—, approve a unit agreement ——— Unit Area, wherein ——— is designated as Unit Operator, and

Whereas said ——— has resigned as such Operator[1] and the designation of a successor Unit Operator is now required pursuant to the terms thereof; and

Whereas the First Party has been and hereby is designated by Second Parties as

[1] Where the designation of a successor Unit Operator is required for any reason other than resignation, such reason shall be substituted for the one stated.

Unit Operator, and said First Party desires to assume all the rights, duties, and obligations of Unit Operator under the said unit agreement:

Now, therefore, in consideration of the premises hereinbefore set forth and the promises hereinafter stated, the First Party hereby covenants and agrees to fulfill the duties and assume the obligations of Unit Operator under and pursuant to all the terms of the ——— unit agreement, and the Second Parties covenant and agree that, effective upon approval of this indenture by the (Name and Title of authorized officer, BLM) First Party shall be granted the exclusive right and privilege of exercising any and all rights and privileges as Unit Operator, pursuant to the terms and conditions of said unit agreement; said Unit agreement being hereby incorporated herein by reference and made a part hereof as fully and effectively as though said unit agreement were expressly set forth in this instrument.

In witness whereof, the parties hereto have executed this instrument as of the date hereinabove set forth.

(Witnesses)

(Witnesses)

(First Party)

(Second Party)

I hereby approve the foregoing indenture designating ——— as Unit Operator under the unit agreement for the ——— Unit Area, this — day of ———, 19—.

Authorized officer of the Bureau of Land Management.

§ 226.17 Model for change in unit operator by assignment.

Change in Unit Operator ——— Unit Area, County of ———, State of ———, No. —. This indenture, dated as of the — day of ———, 19—, by and between ——— hereinafter designated as "First Party," and ——— hereinafter designated as "Second Party."

Witnesseth: Whereas under the provisions of the Act of February 25, 1920, 41 Stat. 437 30 U.S.C. secs. 181, *et seq.*, as amended by the Act of August 8, 1946, 60 Stat. 950, the Department of the Interior, on the — day of ———, 19—, approved a unit agreement for the ——— Unit Area, wherein the First Party is designated as Unit Operator; and

Whereas the First Party desires to transfer, assign, release, and quitclaim, and the Second Party desires to assume all the rights, duties and obligations of Unit Operator under the unit agreement; and

Whereas for sufficient and valuable consideration, the receipt whereof is hereby acknowledged, the First Party has transferred, conveyed, and assigned all his/its rights under certain operating agreements involving lands within the area set forth in said unit agreement unto the Second Party;

Now, therefore, in consideration of the premises hereinbefore set forth, the First Party does hereby transfer, assign, release, and quitclaim unto Second Party all of First Party's rights, duties, and obligations as Unit Operator under said unit agreement; and

Second Party hereby accepts this assignment and hereby covenants and agrees to fulfill the duties and assume the obligations of Unit Operator under and pursuant to all the terms of said unit agreement to the full extent set forth in this assignment, effective upon approval of this indenture by the (Name and Title of authorized officer, BLM); said unit agreement being hereby incorporated herein by reference and made a part hereof as fully and effectively as though said unit agreement were expressly set forth in this instrument.

In witness whereof, the parties hereto have executed this instrument as of the date hereinabove set forth.

(Witnesses)

(Witnesses)

(First Party)

(Second Party)

I hereby approve the foregoing indenture designating ——— as Unit Operator under the unit agreement for the ——— Unit Area, this — day of ———, 19—.

Authorized officer of the Bureau of Land Management

[FR Doc. 83-15680 Filed 6-9-83; 8:45 am]

BILLING CODE 4310-84-M

Minerals Management Service

30 CFR Part 256

Offshore Lessee/Payor; Payment by Electronic Funds Transfer (EFT)

AGENCY: Minerals Management Service (MMS), Interior.

ACTION: Interim rule with request for comments.

SUMMARY: The MMS is publishing an interim regulation requiring any offshore lessee/payor to remit payment to MMS by Electronic Funds Transfer (EFT), when the total payment on any given day to MMS at the Royalty Management Accounting Center (RMAC) Lakewood, Colorado, totals $50,000 or more for royalties and rentals. Payment of the four-fifth bonus and first year's rental shall also be made by EFT.

This remittance method will provide the U.S. Treasury with funds on the actual date of transfer rather than several days later, as is the case with current manual check clearing procedures. It will also significantly improve MMS internal controls for handling cash receipts.

DATES: Interim rule effective July 11, 1983. Comments must be received on or before August 9, 1983.

ADDRESS: Send written comments to Deputy Associate Director for Royalty Management (Policy), 12203 Sunrise Valley Drive, Mail Stop 660, Reston, Virginia 22091.

FOR FURTHER INFORMATION CONTACT: Mr. Orie L. Kelm, (703) 860-7511, (FTS) 928-7511.

SUPPLEMENTARY INFORMATION: This rule requires EFT payment utilizing the Treasury Financial Communications System (TFCS), when the aggregated amount paid to MMS on any given day is $50,000 or more for royalties and rentals. Payments to MMS by EFT for royalties and rentals shall begin only after payor is notified by RMAC. The four-fifths bonus amounts and first year's rentals are also to be paid by EFT, beginning January 1, 1984. Detailed instructions will be provided in the notice of each lease offering.

Payors will not be held responsible for late payments resulting from any third party, mechanical or systems failure of the TFCS. However, late payments resulting from a payor's action, such as improper coding instructions that he gives to his bank to authorize EFT, will be the payor's responsibility.

Daily payments to the RMAC for royalties and rentals totaling less than $50,000 may be made by check, bank draft, or money order payable to MMS. Because the payments for royalties, rentals, and the four-fifths bonus amount are often significant amounts, MMS intends to mandate the use of available technology for larger payments to ensure earlier funds availability for the Government. This interim rule will remain in effect until superseded by the final rulemaking to be published on or after January 1, 1984, after consideraton of comments.

In the past, the one-fifth bid deposit received by the Government has occasionally been returned to the high bidder due to later rejection of the bid for the convenience of the Government. The bid money was held by the Government and was returned without interest. This action places an unreasonable risk on bidders. This interim intends to provide for payment of any interest earned by the Government on the one-fifth bid deposit, if it is later returned for Government convenience. The Government is authorized to pay interest, but has never done so in such situations in the past. The amount of interest estimated to be payable is relatively small (4% of the amount estimated to be saved through use of EFT to remove the present check clearing float time advantage to industry). This provision will become effective for lease offerings after January 1, 1984.

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

43 CFR Parts 23, 3600, 3610, and 3620

[Circular No. 2528]

Mineral Materials Disposal and Surface Exploration; Mining and Reclamation of Land

Under the authority of the Materials Act of July 31, 1947 as amended, (30 U.S.C. 601, 602), Part 23, Subtitle A, Chapter I is revised and Group 3600, Subchapter B, Chapter II of Title 43 of the Code of Federal Regulations is revised by revising Part 3600 and adding new Parts 3610 and 3620 as set forth below.

Group 3600—Mineral Materials Disposal

Note.—The information collection requirements contained in Parts 3600, 3610 and 3620 have been approved by the Office of Management and Budget under 44 U.S.C. 3501 et seq. and assigned clearance number 1004–0103. The information is being collected to allow the authorized officer to determine if the applicant is qualified to purchase or have free use of mineral materials on the public lands. The obligation to respond is required to obtain a benefit.

PART 3600—MINERAL MATERIALS DISPOSAL: GENERAL

Subpart 3600—General

Sec.
3600.0–1 Purpose.
3600.0–3 Authority.
3600.0–4 Policy.
3600.0–5 Definitions.

Subpart 3601—Limitations

3601.1 Limitations, disposal of mineral materials.
3601.1–1 Valid existing rights and unpatented mining claims.
3601.1–2 Authorization to use lands subject to material sales contracts and free use permits.
3601.1–3 Environmental protection and planning.

Subpart 3602—Disposal of Mineral Materials; General

3602.1 Mining and reclamation plans.
3602.1–1 Mining plans
3602.1–2 Reclamation plans.
3602.1–3 Approval and modification of mining and reclamation plans.
3602.2 Sampling and testing.
3602.3 Removal of improvements.

Subpart 3603—Unauthorized Use

3603.1 Unauthorized Use.

Subpart 3604—Community Pits and Common Use Areas

3604.1 Non-exclusive disposal.
3604.2 Reclamation.

Subpart 3600—General

§ 3600.0–1 Purpose.

The regulations in this part establish procedures for the exploration, development and disposal of mineral material resources as well as the protection of the environment of the public lands under permit or contract for sale or free use.

§ 3600.0–3 Authority.

(a) The Act of July 31, 1947, as amended (30 U.S.C. 601 et seq.) provides:

(1) Authority for the disposal of mineral materials including, but not limited to, petrified wood and common varieties of sand, stone, gravel, pumice, pumicite, cinders and clay, in the public lands of the United States, and from lands on which the mineral rights have been reserved to the United States, if the disposal of these materials (i) is not otherwise expressly authorized by law, including, but not limited to the Act of June 28, 1934, as amended (43 U.S.C. 315 et seq.) and the United States mining laws, (ii) is not expressly prohibited by the laws of the United States, and (iii) would not be detrimental to the public interest.

(2) That where the lands have been withdrawn in aid of a function of a Federal department or agency other than the Department of the Interior, or of a State, or other local governmental subdivision or agency, the Secretary of the Interior may make disposals under the regulations in this Part only with the consent of such Federal department or agency or of such State or local governmental unit;

(3) That disposal of mineral materials under the Materials Act may not be made from any lands in any national park or national monument or from any Indian lands or lands set aside or held for the use or benefit of Indians including lands over which jurisdiction has been transferred to the Department of the Interior by Executive Order for the use of Indians.

(4) Authority for the Secretary of the Interior, in his discretion to permit the free use of mineral materials by any Federal or State government agency, unit or subdivision, including municipalities, or any nonprofit association or corporation. The Materials Act *does not* permit these materials to be used for commercial or industrial purposes, resale or barter.

(b) Section 302 of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1732) directs the Secretary:

(1) To manage public lands under the principles of multiple use and sustained yield in accordance with the land use plans developed under the Act (see Part 1601 of this title).

(2) To regulate, through easements, permits, leases, licenses, published rules or other instruments deemed appropriate, the use, occupancy and development of public lands.

(3) To prevent unnecessary and undue degradation of the public lands.

(c) Section 2 of the Act of September 28, 1962 (76 Stat. 652) requires the Secretary of the Interior to provide by regulation that limited quantities of petrified wood may be removed without charges from public lands which he shall specify. Section 2 of the above Act applies to the same public lands as the Act of July 31, 1947, as amended (30 U.S.C. 601, 602). Specifically excluded are lands in any national park, or national monument, or any Indian lands.

(d) Section 304(b) of the Federal Land Policy and Management Act of 1975 (43 U.S.C. 1734) and the Independent Offices Appropriations Act of 1952 (31 U.S.C. 483a) provide authorities for the collection of fees and the reimbursement of costs by the government.

§ 3600.0–4 Policy.

It is the policy of the Bureau of Land Management to permit the disposal of mineral material resources under the Bureau's jurisdiction at fair market value while ensuring that adequate measures are taken to protect the environment and minimize damage to public health and safety during the authorized exploration for and the removal of such minerals. No mineral material shall be disposed of if the Secretary determines that the aggregate damage to public lands and resources would exceed the benefits to be derived from the proposed sale or free use.

§ 3600.0–5 Definitions

As used in this group, the term:

(a) "Bureau" means Bureau of Land Management, Department of the Interior.

(b) "Director" means the Director of the Bureau of Land Management.

(c) "Permittee" means any person, corporation, partnership and association, Federal, or State agency, unit, or subdivision, including municipalities, and non-profit organization or corporation or other entity that has been issued a contract or a free-use permit for the removal of mineral materials from the public lands.

(d) "Authorized officer" means any employee of the Bureau of Land Management who has been delegated the authority to perform the duties described in this Part.

(e) "Mineral material" includes, but is not limited to, "common varieties" of sand, stone, gravel, pumice, pumicite, cinders, clay and other mineral materials and petrified wood.

(f) "Public lands" means any lands and interest in lands owned by the United States and administered by the Secretary of the Interior through the Bureau of Land Management without regard to how the United States acquired ownership, except lands held for the benefit of Indians, Aleuts, and Eskimos.

(g) "Community pit" means a site from which nonexclusive disposals of mineral materials can be made. The establishment of a community pit, when noted on the appropriate Bureau of Land Management records or posted on the ground, constitutes a superior right to remove material as against any subsequent claim or entry of the lands.

(h) "Common use area" means a generally broad geographic area from which nonexclusive disposals of mineral materials can be made, with only negligible surface disturbance. The establishment of a common use area does not create a superior right to remove material as against any subsequent claim or entry of the lands.

(i) "Performance bond" means a bond to ensure compliance with the terms of

the contract and reclamation of the site as required by the authorized officer.

(j) "Act" means the Material Act of July 31, 1947, as amended, (30 U.S.C. 601, et seq.).

(k) "Unnecessary or undue degradation" means surface disturbance greater than what would normally result when an activity is being accomplished by a prudent operator in usual, customary, and proficient operations of similar character and taking into consideration the effects of operations on other resources and land uses, including those resources and uses outside the area of operations. Unnecessary and undue degradation may involve failure to initiate and complete reasonable mitigation measures, including reclamation of disturbed area; creation of a nuisance; or failure to comply with applicable environmental protection statutes and regulations.

Subpart 3601—Limitations

§ 3601.1 Limitations; disposal of mineral materials.

§ 3601.1–1 Valid existing rights and unpatented mining claims.

(a) Mineral material disposals may not be made by the authorized officer from public lands where:

(1) There are any unpatented mining claims which have not been cancelled by appropriate legal proceeding;

(2) Expressly prohibited by law.

§ 3601.1–2 Authorization to use lands subject to material sales contracts and free use permits.

(a) The permittee under contract of sale or permit for free use shall, unless otherwise provided, have the right to:

(1) Extract, remove, process and stockpile the material until the termination of the contract regardless of any subsequent appropriation under the provisions of the general land laws; and

(2) Use and occupy the described lands if it is determined by the authorized officer to be necessary for fulfillment of the contract until termination of that contract.

(b) The permittee shall be subject to the continuing rights of the United States to issue leases, permits and licenses for the use and occupancy of the lands, provided that this authorized use does not endanger or materially interfere with the production or removal of materials under contract.

(c) Any person that has a subsequent settlement, location, lease, sale or other appropriation under the general land laws, including the mineral leasing and mining law on lands covered by a material sale contract or free use permit shall be subject to the existing use authorization.

§ 3601.1–3 Environmental protection and planning.

The authorized officer shall not dispose of mineral material under this Part where he/she determines that the proposed operation will cause unnecessary or undue degradation. Upon receipt of an application for sale or free use of mineral materials, the authorized officer shall complete an environmental review to ensure that unnecessary or undue degradation is prevented. Disposal actions which are categorically excluded from the NEPA process can be found in the Departmental manual. See 516 DM 6, Appendix 5. Decisions to authorize the disposal of mineral materials shall conform to approved land use plans, when available, in accordance with § 1610.5–3 of this title.

Subpart 3602—Disposal of Mineral Materials; General

§ 3602.1 Mining and reclamation plans.

The authorized officer may require the applicant to submit mining and reclamation plans prior to environmental review or issuance of a contract or permit. The mining plan and reclamation plan may be combined into one document.

§ 3602.1–1 Mining plans.

The applicant, when required by the authorized officer, shall prepare a mining plan that includes, but is not limited to:

(a) A map, sketch or aerial photograph showing the area applied for, the area to be disturbed, existing and proposed access and the names and locations of major topographic and known cultural features;

(b) A description of the proposed methods of operation and the periods during which the proposed activities will take place;

(c) A description of measures to be taken to prevent hazards to public health and safety and to prevent unnecessary and undue degradation.

§ 3602.1–2 Reclamation plans.

The applicant, when required by the authorized officer, shall submit a reclamation plan that includes, but is not limited to:

(a) A statement of the proposed manner and time for completion of the reclamation of the areas disturbed by the permittee's operations;

(b) A map or sketch which delineates the location and area to be reclaimed.

§ 3602.1–3 Approval and modification of mining and reclamation plans.

(a) Upon review of the mining and reclamation plans, the authorized officer shall promply notify the applicant of any deficiencies in the plan and of changes needed to prevent undue and unnecessary degradation of the lands, and hazards to public health and safety. Necessary changes shall be made as agreed by the authorized officer and the applicant.

(b) The permittee's operation shall not deviate from the plan approved by the authorized officer.

(c) An approved mining or reclamation plan may be modified by mutual agreement of the authorized officer and permittee at any time to adjust to changed conditions, or correct any oversight potentially resulting in undue or unnecessary degradation. Any change shall be consistent with the requirements under § 3601.1–3 of this title.

(d) The authorized officer shall review the proposed plan modification and within 30 days notify the permittee of its approval or needed changes.

§ 3602.2 Sampling and testing.

(a) Sampling and testing of mineral materials may be done pursuant to a letter of authorization issued by the authorized officer. These activities may be authorized prior to issuance of a sales contract or free use permit. The permittee shall submit his findings to the authorized officer. Information and data submitted and specifically identified by the permittee as containing trade secrets or confidential or privileged commercial or financial information shall not be available for public examination in accordance with the provisions of the Freedom of Information Act. A determination concerning information which may be withheld from public examination shall be made in accordance with the rules in 43 CFR Part 2.

(b) A letter of authorization to sample and test mineral materials does not give the applicant a preference right to a sales contract or free use permit.

(c) The authorized officer may impose bonding and reclamation requirements on sampling and testing activities conducted pursuant to a letter of authorization.

§ 3602.3 Removal of Improvements

After the permit period expires, the authorized officer may grant the permittee no more than 90 days, excluding periods of inclement weather, to remove the equipment, personal property and any other improvements

placed on the public lands by the permittee. Improvements such as roads, culverts and bridges may remain in place with the consent of the authorized officer. If the permittee fails to remove such equipment, personal property or any other improvements, they shall become the property of the United States but the permittee shall remain liable for the cost of removal of such equipment, personal property and any other improvements and for restoration of the site.

Subpart 3603—Unauthorized use

§ 3603.1 Unauthorized Use.

Except when authorized by sale or permit under law and the regulations of the Department of the Interior, the extraction, severance or removal of mineral materials from public lands under the jurisdiction of the Department of the Interior is unauthorized use. Unauthorized users shall be liable for damages to the United States, and shall be subject to prosecution for such unlawful acts (see subpart 9239 of this title).

Subpart 3604—Community Pits and Common Use Areas

§ 3604.1 Non-exclusive disposal.

(a) Non-exclusive mineral material sales and free use under permit may be made from the same deposit within areas designated by the authorized officer, and consistent with other provisions under this part. These designated community pit sites or common use areas are not limited in size.

(b) The designation of a community pit site constitutes a superior right to remove the material as against any subsequent claim or entry of the lands.

(c) The designation of a common use area does not establish a superior right to remove the material as against any subsequent claim or entry of the land; however, a person authorized by permit or sale to remove mineral materials from a common use area has a superior right to remove the material as against any subsequent claim or entry on the lands.

(d) Sales from community pit sites or common use areas shall be made at fair market value. No mining or reclamation plan shall be required, but the permittee shall comply with the terms of the contract or permit to protect health and safety and prevent undue or unnecessary degradation of the public lands.

§ 3604.2 Reclamation.

(a) Permits or contracts for the extraction of mineral materials from community pits or common use areas shall not require reclamation but shall require payment of costs of reclamation, as provided in paragraph (b) of this section. However, the authorized officer may allow qualified permittees to perform interim or final reclamation, where needed, in lieu of paying reclamation charges.

(b) The reimbursement cost of reclamation shall be a proportionate share of the total estimated cost of reclamation, determined by using a ratio of the material extracted under the permit or contract to the total estimated volume of the material to be extracted from the site.

2. Part 3610 is added to read as follows:

PART 3610—SALES

Subpart 3610—Mineral Material Sales

Sec.

3610.1 Procedures: general.
3610.1–1 Request for sale.
3610.1–2 Appraisal, reappraisals and measurements.
3610.1–3 Payments.
3610.1–4 Refunds or credits.
3610.1–5 Performance and reclamation bonds.
3610.1–6 Assignments.
3610.1–7 Extension of time.
3610.2 Non-competitive sales.
3610.2–1 Limitations in volume.
3610.2–2 Government programs.
3610.2–3 Federal mineral leases.
3610.2–4 Term of contract.
3610.3 Competitive sales.
3610.3–1 General.
3610.3–2 Advertising.
3610.3–3 Conduct of sales.
3610.3–4 Bid deposits.
3610.3–5 Contracts.
3610.3–6 Term of contract.

Subpart 3610—Mineral Material Sales

§ 3610.1 Procedures; general.

§ 3610.1–1 Request for sale.

Under the provisions of this part, the authorized officer may sell mineral materials upon receipt of a written Request by any person who expresses an interest in mineral materials; or his own initiative.

§ 3610.1–2 Appraisal, reappraisal and measurements.

(a) No mineral materials shall be sold at less than fair market value as determined by appraisal.

(b) The authorized officer shall reappraise mineral materials disposed of under this part at intervals of not less than 2 years and shall adjust the contract unit price accordingly.

(c) Mineral materials may be measured by in-place volume or weight equivalent.

§ 3610.1–3 Payments and termination by agreement.

(a) Under a contract of sale for mineral materials, the permittee:

(1) Shall not remove mineral materials until advance payment is made;

(2) Shall for contract sales of $2.000 or less, pay the full amount at execution of the contract;

(3) May, when the sale exceeds $2,000, make installment payments of not less that $500 or 10 percent of the total purchase price, whichever is greater and shall: (i) For non-competitive sales, pay the first installment prior to or at the time the contract is awarded; (ii) for competitive sales, pay the first installment as a deposit at the time the bid is submitted, and (iii) pay each subsequent installment for non-competitive and competitive sales in an amount equal to the value of the mineral material removed prior to removal of the material:

(4) Shall pay the total amount of the purchase price no later than 60 days before the expiration date of the contract;

(5) Shall annually produce an amount sufficient to pay to the United States a sum of money equal to the first installment, or in lieu of such production, shall make an annual payment in the amount of the first installment. Annual payments shall be due on or before the anniversary date of the execution of the contract;

(6) Shall forfeit all monies paid when the required payments under the terms and conditions of the contract are not met. Failure to comply with the terms and conditions for payment shall constitute a breach of contract and the authorized officer may terminate the contract;

(7) Shall be required to make an annual report of production under the contract and to provide written verification of the amount of mineral materials removed upon request by the authorized officer to allow verification of payments.

(b) The permittee and the authorized officer may, by agreement, terminate the contract of sale at any time.

§ 3610.1–4 Refunds or credits.

(a) Refunds or credits may be made to the permittee:

(1) If upon expiration total payments made exceed the total value of mineral materials covered by the contract;

(2) If it is determined by the authorized officer that insufficient mineral materials existed in the sales area to fulfill the terms of the contract; or

(3) If materials paid for are unavailable as a result of termination of a contract, as provided in § 3610.1–3(b) of this title.

(b) Refunds of credits may not be made where the total payment made by a permittee does not exceed the administrative cost of processing the disposal action.

(c) Payments made in lieu of production, as provided in § 3610.1–3(a)(5), may be credited to future production, but not refunded, unless upon expiration, the total value of payments made exceeds the total value of mineral materials covered by the contract. Payments made in lieu of production prior to termination or relinquishment of contract will not be refunded.

§ 3610.1–5 Performance and reclamation bonds.

(a) The authorized officer shall require a performance bond of not less than $500 or 20 percent of the total contract value, whichever is greater, for contracts of $2,000 or more, except for contract sales or permits made from community pits when a reclamation fee is paid by the permittee.

(b) The authorized officer may require a reclamation or performance bond for contract sales of less than $2,000, but in no event shall the bond be for more than 20 percent of the total contract value.

(c) A performance and reclamation bond may be a:

(1) Bond of a corporate surety shown on the approved list issued by the U.S. Treasury Department;

(2) Cash bond, with a power of attorney to the Secretary to convert such cash upon default in the performance of the terms and conditions of the contract or permit; or

(3) Negotiable Treasury bond of the United States of a par value equal to the amount of required bond, together with a power of attorney to the Secretary to sell such securities upon default.

§ 3610.1–6 Assignments.

(a) The permittee may not assign the contract, permit or any interest therein without the written approval of the authorized officer. The authorized officer shall ensure that all terms and conditions agreed upon are contained in the assignment and are assumed by the assignee.

(b) The authorized officer shall not approve any proposed assignments involving contract performances unless the assignee furnishes a performance bond as required by § 3610.1–5 of this title or obtains a written commitment from the previous surety to be bound by the assignment when approved.

(c) Upon approval of an assignment by the authorized officer, the assignee shall be entitled to all the rights and be subject to all the obligations under the contract, and the permittee shall be released from any further liability under the contract.

§ 3610.1–7 Extension of time.

The authorized officer may grant a one-time extension not to exceed 1 year, if the permittee:

(a) Submits a written request that is received by the authorized officer no later than 30 days or earlier than 90 days prior to the expiration date of the contract; and

(b) Shows, in writing that the delay in removal of the mineral materials was due to causes beyond the control of and without fault or negligence of the permittee.

§ 3610.2 Noncompetitive sales.

§ 3610.2–1 Limitations in volume.

(a) When it is determined to be in the public interest, and where it is impracticable to obtain competition, the authorized officer may sell at not less than fair market value, without advertising or calling for bids, mineral materials not to exceed 100,000 cubic yards (or weight equivalent) in any individual sale.

(b) The authorized officer shall not approve noncompetitive sales that exceed the total aggregate of 200,000 cubic yards (or weight equivalent) made in any one State for the benefit of any one individual, partnership, corporation or entity in any period of twelve consecutive calendar months.

(c) The volume limitations in paragraphs (a) and (b) of this section shall not apply to sales in the State of Alaska of mineral materials which the authorized officer determines are needed for construction, operation, maintenance or termination of the Trans-Alaska Pipelines System or the Alaska Natural Gas Transportation System.

§ 3610.2–2 Government programs.

The authorized officer may sell mineral materials not exceeding 200,000 cubic yards (or weight equivalent) at not less than fair market value without advertising or calling for bids when:

(a) The authorized officer determines the sale to be in the public interest; and

(b) The materials are to be used in connection with a public works improvement program that requires urgent attention on behalf of a Federal, State or local governmental agency and that does not permit time required for advertising.

§ 3610.2–3 Federal mineral leases.

Where the materials are to be used in connection with the development of public lands under a mineral lease issued by the United States, the authorized officer may without calling for competitive bids, sell a volume of mineral materials not to exceed 200,000 cubic yards (or weight equivalent) to any one permittee in one State in any calendar year. No charge shall be made for mineral materials necessarily moved in the process of extracting minerals under Federal lease, as long as the materials remain within the boundaries of the lease and are used for lease development.

§ 3610.2–4 Term of contract.

The term for noncompetitive contracts for the sale of mineral materials shall not exceed 5 years, excluding extension and removal periods.

§ 3610.3 Competitive sales.

§ 3610.3–1 General.

(a) The authorized officer shall make sales, except those specified in Subpart 3604 and § 3610.2 of this title, only after inviting competitive bids through publication and posting in conformance with § 3610.3 of this title.

(b) The authorized officer shall not hold sales sooner than 1 week after the last advertisement inviting competitive bids.

§ 3610.3–2 Advertising.

(a) When offering mineral materials for sale by competitive bidding, the authorized officer:

(1) Shall advertise the sale through publication in a newspaper of general circulation in the area where the material is located, on the same day once a week for two consecutive weeks;

(2) May extend the period of a time for advertising; and

(3) Shall post a notice of sale in a conspicuous place in the office where bids are to be submitted.

(b) In the advertisement of sale, the authorized officer shall state:

(1) The location by legal description of the tract or tracts on which the material is being offered;

(2) The kind of materials being offered;

(3) The estimated quantities of materials being offered;

(4) The unit of measurement;

(5) The appraised prices;

(6) The time and place for receiving and opening of bids;

(7) The minimum deposit require;

(8) The access requirement;

(9) The method of bidding;

(10) The requirement that mining and reclamation plans shall be filed and that reclamation will be required if applicable.

(11) The bonding requirement;

(12) The location for inspection of contract terms and proposed stipulations;

(13) The office where additional information may be obtained; and

(14) Any additional information deemed necessary.

§ 3610.3-3 Conduct of sales.

(a) Bidding at competitive sales shall be by the submission of written sealed bids, oral bids or a combination of both, as directed by the authorized officer. In the event of a tie in high sealed bids, the highest bid shall be determined by oral auction among the persons making high bids. If no oral bid is made which is higher than the sealed bids, the successful bidder shall then be determined by lot. In oral auctions, immediately after the high bid is announced, the person offering the high bid shall confirm that bid in writing.

(b) When it is in the interest of the Government to do so, the authorized officer may reject any or all bids and may waive minor deficiencies in the bids.

§ 3610.3-4 Bid deposits.

A person making a bid to purchase mineral materials shall submit a deposit in advance of the sale.

(a) Sealed bids shall be accompanied by a deposit. At oral auctions, persons making bids shall make the deposit prior to opening of the bidding. The amount of the deposit shall be $500 or 10 percent of the appraised value as specified in the sale advertisement, whichever is greater.

(b) Deposits may be in the form of cash, money orders, bank drafts, or cashier's or certified checks made payable to the Bureau of Land Management.

(c) The bid deposits of all persons making bids, except that of the successful bidder, shall be returned upon conclusion of the bidding.

(d) The deposit of the person making the successful bid shall be applied to the purchase price at the time the contract is signed by the authorized officer.

§ 3610.3-5 Contracts.

(a) The authorized officer may require the person making the high bid to furnish information that is necessary to determine his ability to fulfill the obligations of the contract. The contract shall be awarded by the authorized officer to the person making the highest bid, unless he is unwilling to accept the terms of the contract or unless all bids are rejected.

(b) Within 30 days after receipt of the contract, the person making the successful bid shall sign and return the contract, together with any required performance bond and mining and reclamation plan when applicable. The authorized officer may extend this period an additional 30 days upon written request of the applicant, within the first 30-day period. If the person making the successful bid fails to comply within the first 30-day period, or an approved 30-day extension, the successful bidder shall forfeit the bid deposit as liquidated damages. The authorized officer may offer and award the contract for the amount of the high bid to the person making the next highest bid who is qualified and willing to accept the contract, upon the redeposit of the amount required under § 3610.3-4(a).

(c) The authorized officer shall make all sales on contract forms approved by the Director. The authorized officer may include in the contract such additional provisions as are deemed necessary to protect other resource values or prevent unnecessary and undue degradation of the public lands.

§ 3610.3-6 Term of Contract.

The term for competitive contracts of sale for mineral materials shall not exceed 10 years, excluding extension or removal periods.

3. Part 3620 is added to read as set forth below:

PART 3620—FREE USE

Subpart 3621—Free Use; General

Sec.

3621.1 Permits; general.
3621.1-1 Applications.
3621.1-2 Terms.
3621.1-3 Assignment.
3621.1-4 Conditions.
3621.1-5 Removal of materials by agent.
3621.1-6 Bonds.
3621.1-7 Cancellation.
3621.2 Permits to governmental units and non-profit organizations.

Subpart 3622—Free Use of Petrified Wood

3622.1 Program; general.
3622.2 Procedures; permits.
3622.3 Designation of areas.
3622.4 Collection rules.

Subpart 3621—Free Use, General

§ 3621.1 Permits; general.

§ 3621.1-1 Applications.

An application for a free use permit shall be filed with the authorized officer on forms approved by the Director.

§ 3621.1-2 Terms.

The authorized officer may grant free use permits to any Federal, or State agency, unit or subdivision, including municipalities, for periods deemed appropriate, not to exceed 10 years. The authorized officer may issue free use permits not to exceed 1 year in duration to non-profit organizations, and may extend any free use permit for a single additional period not to exceed 1 year.

§ 3621.1-3 Assignment.

A free use permit may be assigned or transferred to persons or other entities listed in § 3621.1-2 of this title qualified to hold a free use permit with the written approval of the authorized officer.

§ 3621.1-4 Conditions.

(a) The authorized officer shall incorporate the provisions governing the selection, removal and use of the mineral materials in the free use permit.

(b) The authorized officer shall not issue a free use permit upon determination that the applicant owns or controls an adequate supply of suitable mineral materials that are readily available and can be mined in a manner which is economically and environmentally acceptable.

(c) Mineral materials obtained under a free use permit shall not be bartered or sold.

(d) The permittee shall not remove the mineral materials before a permit is issued or after a permit has expired.

§ 3621.1-5 Removal of materials by agent.

A free use permittee may allow an agent to extract the mineral materials. This agent shall not charge the permittee for the materials extracted, processed or removed, or receive mineral materials from the permit area as payment for services rendered, or as a donation or gift.

§ 3621.1-6 Bond.

The authorized officer may require a bond as a guarantee of faithful performance of the provisions of the permit and applicable regulations.

§ 3621.1-7 Cancellation.

The authorized officer may cancel a permit if the permittee fails, after adequate notice, to observe the terms and conditions of the permit.

§ 3621.2 Permits to governmental units and non-profit organizations.

(a) The authorized officer may issue a free use permit to any Federal or State agency, unit or subdivision, including municipalities, without limitation as to the number of permits or as to the value

of the mineral materials to be extracted or removed, provided the applicant makes a satisfactory showing to the authorized officer that these materials will be used for a public project.

(b) The authorized officer may issue a free use permit to a non-profit organization or corporation for not more than 5,000 cubic yards (or weight equivalent) in any period of twelve consecutive months.

(c) Permits issued under this subpart shall constitute a superior right to remove the materials and shall continue in full force and effect, in accordance with its terms and provisions, as against any subsequent claim to or entry of the lands.

Subpart 3622—Free Use of Petrified Wood

§ 3622.1 Program; general.

(a) Persons may collect limited quantities of petrified wood for noncommercial purposes under terms and conditions consistent with the preservation of significant deposits as a public recreational resource.

(b) The purchase of petrified wood for commercial purposes is provided for in § 3610.1 of this title.

§ 3622.2 Procedures; permits.

No application or permit for free use is required except for specimens over 250 pounds in weight. The authorized officer may issue permits, using the procedures of subpart 3621 of this title, for the removal of such specimens if the applicant certifies that they will be displayed to the public in a museum or similar institution.

§ 3622.3 Designation of areas.

(a) All public lands administered by the Bureau of Land Management and the Bureau of Reclamation are open to or available for free use removal of petrified wood unless otherwise provided for by notice in the Federal Register. Free use areas under the jurisdiction of said Bureaus may be modified or cancelled by notices published in the Federal Register.

(b) The heads of other Bureaus in the Department of the Interior may publish in the Federal Register designations, modifications or cancellations of free use areas for petrified wood on lands under their jurisdiction.

(c) The Secretary of the Interior may designate, modify or cancel free use areas for petrified wood on public lands which are under the jurisdiction of other Federal departments or agencies, other than the Department of Agriculture, with the consent of the head of other Federal departments or agencies concerned, upon publication of notice in the Federal Register.

§ 3622.4 Collection rules.

(a) *General.* The authorized officer shall control the removal without charge of petrified wood from public lands using the following criteria:

(1) The maximum quantity of petrified wood that any one person is allowed to remove without charge per day is 25 pounds in weight plus one piece, provided that the maximum total amount that one person may remove in one calendar year shall not exceed 250 pounds. Pooling of quotas to obtain pieces larger than 250 pounds is not allowed.

(2) Except for holders of permits issued under Subpart 3621 of this title to remove museum pieces, no person shall use explosives, power equipment, including, but not limited to, tractors, bulldozers, plows, power-shovels, semi-trailers or other heavy equipment for the excavation or removal of petrified wood.

(3) Petrified wood obtained under this section shall be for personal use and shall not be sold or bartered to commercial dealers.

(4) The collection of petrified wood shall be accomplished in a manner that prevents unnecessary and undue degradation of lands.

(b) *Additional rules.* The head of the agency having jurisdiction over a free use area may establish and publish additional rules for collecting petrified wood for noncommercial purposes to supplement those included in § 3622.4(a) of this title.

PART 23—SURFACE EXPLORATION, MINING AND RECLAMATION OF LANDS

2. Part 23 is amended as follows:

Authority [Amended]

A. The authority section is amended by removing the citation "61 Stat. 681, as amended; 30 U.S.C. 601" after the citation "30 U.S.C. 359".

§ 23.2 [Amended]

B. Section 23.2(a) is amended by changing "paragraphs" to "paragraph" and removing the phrase "and (c)" from the first sentence and removing the citation "the Materials Act of July 31, 1947, as amended (30 U.S.C. 601–604)".

C. Section 23.2(b) is amended by deleting the phrase "which are under the jurisdiction of the Secretary of Agriculture (74 Stat. 205)".

D. Section 23.2(c) is removed in its entirety and paragraph (d) is redesignated as (c).

§ 23.3 [Amended]

E. Section 23.3(b) is removed in its entirety and the succeeding paragraphs are appropriately renumbered.

§ 23.4 [Amended]

F. Section 23.4 is amended by the removal of the words "or the Materials Act" after the words "subject to disposition under the mineral leasing Acts".

§ 23.5 [Amended]

G. Section 23.5(a)(1) is amended by removing the words "or an application for a permit or an offer to make a contract under the Materials Act".

H. Section 23.5(b) is amended by removing from the fourth sentence the words "or the Materials Act".

§ 23.7 [Amended]

I. Section 23.7(b) is removed in its entirety and the succeeding paragraphs are appropriately renumbered.

§ 23.8 [Amended]

J. Section 23.8(a) is amended by removing subparagraph (2) in its entirety and renumbering paragraph (a)(1) as (a).

§ 23.10 [Amended]

K. Section 23.10(a)(1) is amended by removing the sentence, "The holder of a permit or a party to a contract under the Materials Act shall file such reports with the district manager."

L. Section 23.10(a)(2) is amended by removing the words "and upon district managers with respect to permits issued or contracts made under the Materials Act".

M. Section 23.10(e)(2)(ii) is amended by removing the phrase "or the Materials Act".

N. Section 23.10(e)(2)(iii) is amended by removing the phrase "or the Materials Act".

§ 23.11 [Amended]

O. Section 23.11(a) is amended by removing the words "and upon district managers with respect to permits issued or contracts made under the Materials Act".

March 17, 1983.

Garrey E. Carruthers,

Assistant Secretary of the Interior.

[FR Doc. 83-15509 Filed 6-9-83; 8:45 am]

Library

DEPT. OF INTERIOR
BUR. OF LAND MANAGEMENT
1983 JUL 19 PM 2:21
RECEIVED
MONTANA STATE OFFICE
BILLINGS, MONTANA

DEPARTMENT OF THE INTERIOR

Minerals Management Service

Bureau of Land Management

30 CFR Part 221

[Circular No. 2529]

Site Security; Onshore Federal and Indian (Except Osage) Oil and Gas Leases

Under the authority of the Act of February 25, 1920, (30 U.S.C. 189), the Federal Oil and Gas Royalty Management Act of 1982 (Pub. L. 97-451), and Executive Order 12291 (3 CFR, 1981 Comp., p. 127), Part 221, Chapter II, Title 30 of the Code of Federal Regulations is amended as set forth below.

PART 221—[AMENDED]

Section 221.37, is added to read as follows:

§ 221.37 Site Security on Federal and Indian (except Osage) Oil and Gas Leases.

(a) *Definitions.–Appropriate valves.* Those valves in a particular piping system, i.e., fill lines, equilizer lines, sales lines, circulating lines, drain lines, or other lines, that must be sealed during a given phase of operations.

Authorized Officer (AO). The employee of the Bureau of Land Management who has been delegated the authority to perform the duties described in the specific provision of this section.

Authorized Representative. Any person authorized by the Secretary to perform designated duties by delegation, cooperative agreement, or contract.

Closed system. A piping arrangement from one or more source points to one or more other points in a system which does not have means of access, i.e., flat plugs, bullplugs, blanking caps, open-ended valves, or combinations thereof.

Effectively sealed. The placement of a seal in such a manner that the position of the sealed fitting may not be altered or the fitting removed from the system without the seal being destroyed.

Open system. A piping arrangement from one or more source points to one or more other points in a system which does have a means of access, i.e., flat plugs, bullplugs, blanking caps, open-ended valves, or combinations thereof.

Production phase. That period of time or mode of operation during which crude oil is delivered directly to or through production vessels to the storage facilities.

Proper BLM office. The Bureau of Land Management office having jurisdiction over the lands subject to the regulation in this section. (See 43 CFR 1821.2–1) When two or more offices have jurisdiction over a field or the lands to be unitized, the "proper BLM office" shall be the office having jurisdiction over the majority of the field or unit area when the field is developed or the unit is formed.

Sales phase. That period of time or mode of operation during which crude oil is removed from the storage facilities for sales, transportation or other purposes.

Seal. A device, uniquely numbered, which completely secures a fitting.

(b) *Minimum standards.* Each operator of a Federal or Indian (except Osage) lease shall comply with the following minimum standards:

(1) All appropriate valves on lines entering or leaving oil storage tanks shall be effectively sealed during the production phase and during the sales phase. The piping and connections in a closed system which are tamper proof or tamper resistant are essentially protected from unauthorized or undocumented entry, but the piping and connections in an open system shall be protected. For a minimum of 6 years the operator shall maintain a record of seal numbers used and shall document on which valves or connections they were used as well as when they were installed and removed. The site facility diagram(s) shall show which valves will be sealed in which positions during both the production and sales phase, and shall show whether the piping is an open or closed system.

(2) Each Automatic Custody Transfer (ACT) system shall employ meters that have non-resettable totalizers. There shall be no by-pass piping around the ACT. Similarly, there shall be no by-pass piping around gas meters. Equipment which permits changing the orifice plate without bleeding the pressure off the gas meter run is not considered a by-pass.

(3) Where oil is sold via hand gauged volumes, the operator shall minimize the time that oil is stored on leases to that time needed to accumulate an economic run. The operator may retain that oil needed for use on the lease and to provide for delivery of royalty oil.

(4) The operator will deal promptly with any other accumulations of oil in pits or tanks in accordance with the provisions of § 221.36 and applicable NTL's or onshore orders.

Published in 48 F.R. 31798, July 11, 1983 - Effective September 9, 1983.

(5) The operator, with reasonable frequency, shall regularly inspect all leases, units, and communitized areas to determine site security and production volumes. The operator shall retain records of such inspections and measurements for 6 years. Such records and measurements shall be available to any authorized officer or authorized representative upon request.

(6) All facilities at which oil is stored shall be clearly identified with a sign that contains the name of the operator, the lease serial number (or communitization or unit agreement identification), and, in public land States, the quarter-quarter, section, township, and range. On Indian leases, the sign also shall include the name of the appropriate Tribe and whether the lease is tribal or allotted. In addition, each storage tank shall be clearly identified by a unique number. The identification shall be maintained in legible condition and shall be clearly apparent to any person at or approaching the sales or transportation point. With regard to the quarter-quarter designation and the unique tank number, any such designation established by state law or rule will satisfy this requirement. Any facility identification which is in existence on the effective date of this rule and which meets the basic information required herein will satisfy this paragraph until such sign is replaced.

(7) Any person removing oil from a facility by motor vehicle shall possess the identification documentation required by applicable NTL's or operating orders while the oil is being removed and transported.

(8) Theft or mishandling of oil from a Federal or Indian lease shall be reported to the authorized officer as soon as discovered but not later than the next business day. Said report shall include an estimate of the volume of oil involved. Operators also are expected to report such thefts promptly to local law enforcement agencies and internal company security.

(9) Any operator may request the authorized officer to approve a variance from any of the minimum standards prescribed by this section. The authorized officer shall approve a variance if the proposed alternative meets or exceeds the objective of the applicable standard.

(c) *Site Security Plans.* (1) Site security plans, which include the operator's plan for complying with the minimum standards enumerated in paragraph (b) of this section, shall be completed and the existing facilities shall be in compliance with the plan on September 9, 1983. For facilities constructed after September 9, 1983 conformance with existing plans shall be established or new plans shall be completed no later than 30 days of completion of construction or first production, whichever occurs first, and on that date the facilities shall be in compliance with the plan. At the operator's option, a single plan may include all of the operator's leases, unit and communitized areas, within a single BLM district, provided the plan clearly identifies each lease, unit, or communitized area included within the scope of the plan and the extent to which the plan is applicable to each lease, unit, or communitized area so identified.

(2) The operator shall retain the plan but shall notify the authorized officer of its completion and which leases, unit and communitized areas are involved. Such notification is due at the time the plan is completed as required by (c)(1) of this section. Such notification shall include the location and normal business hours of the office where the plan will be maintained.

(3) The plan shall include the frequency and method of the operator's inspection and production volume recordation. The authorized officer may, upon examination, require adjustment of the method or frequency of inspection.

(d) *Site Facility Diagrams.* (1) Facility diagrams shall be filed with the authorized officer no later than September 9, 1983 for those facilities in existence on that date. Thereafter, facility diagrams shall be filed within 30 days after new measurement facilities are installed or existing facilities are modified.

(2) No format is prescribed for facility diagrams. They should be prepared on 8½" X 11" paper, if possible, and be legible and comprehensible to a person with ordinary working knowledge of oilfield operations and equipment.

(3) A site facility diagram shall reflect the actual conditions at the site and shall clearly identify the vessels, piping (indicating whether piping is a closed or open system), and metering system which apply to the handling and disposal of oil, gas, and water. The diagram must clearly identify the lease on which the facility is located and the site security plan to which it is subject along with the location of the plan.

(4) Site facility diagrams submitted under this section will satisfy the requirement for facility diagrams appearing at any other section of this part.

Dated: June 14, 1983.

Garrey E. Carruthers,

Assistant Secretary of the Interior.

[FR Doc. 83-18513 Filed 7-8-83; 8:45 am]

2529

DEPARTMENT OF THE INTERIOR

Minerals Management Service

Bureau of Land Management

30 CFR Part 221

[Circular No. 2529]

Site Security; Onshore Federal and Indian (Except Osage) Oil and Gas Leases

AGENCY: Bureau of Land Management, Department of the Interior. (See first paragraph of supplementary information).

ACTION: Final rulemaking.

SUMMARY: This final rulemaking provides minimum standards required to be followed on onshore Federal and Indian (except Osage) oil and gas leases to reduce the circumstances which could facilitate the theft or mishandling of crude oil. The minimum standards have been designed under the basic premise that the primary responsibility for site security rests with those who operate the leases; however, oversight responsibility rests with the Government on behalf of the people of the United States and the appropriate Indian lessors.

EFFECTIVE DATE: September 9, 1983.

ADDRESS: Director (500), Bureau of Land Management, 18th & C. Streets NW., Washington, D.C. 20240.

FOR FURTHER INFORMATION CONTACT: Mr. Gerald R. Daniels, (703) 860-7535, (FTS) 928-7535, or Mr. Stephen H. Spector (703) 860-7969, (FTS) 928-7969.

SUPPLEMENTARY INFORMATION: Following the publication of the proposed site security regulations for public comment on November 19, 1982 (47 FR 52397), the Secretary of the Interior transferred to the Bureau of Land Management the duties concerning approval and supervision of operational activities on Federal and Indian oil and gas leases formerly exercised by the Minerals Management Service (MMS) (Secretarial Order #3087 December 3, 1982, amended February 7, 1983) Notice of these actions was published in the Federal Register on March 2, 1983 (48 FR 8983). In addition, on January 12, 1983, the Federal Oil and Gas Royalty Management Act of 1982 (Pub. L. 97-451) became law.

Section 102(b)(1) of that Act requires the Secretary to prescribe minimum standards for site security for onshore Federal and Indian (except Osage) oil and gas leases, and that lease operators shall develop and comply with site security plans which conform with these minimum standards. Section 301(b) of the Act requires that implementing rules and regulations shall be issued in conformity with Section 533 of Title 5 of the United States Code, notwithstanding Section 533(a)(2) of that title.

Implementation of the Royalty Management Act will also require a revision of other provisions of the existing onshore oil and gas operating regulations as well as promulgation of new regulations pertaining to subjects not now addressed in those regulations. The additional revision of existing regulations and the promulgation of new regulations will be addressed in separate, future rulemakings.

In accordance with Secretarial Order No. 3087, the Department plans to transfer the applicable portions of the operating regulations now in Title 30 to Title 43 of the Code of Federal Regulations. However, as this will not occur for several months, it has been determined to complete promulgation of this final site security rulemaking under Title 30 CFR Part 221, as initiated and to modify and reorganize the provisions, as proposed, only to the extent necessary to take into account the comments received, the enactment of the new Royalty Management Act, and the Departmental reorganization which transferred certain functions from MMS to BLM. The basic content of the minimum site security standards, as proposed, has not been disturbed significantly in this final rulemaking.

Until the public and lease operators are advised otherwise, any material required to be filed by these site security regulations, both for Federal and Indian leases, should be sent to the appropriate State Director of the Bureau of Land Management. The State Directors will forward the material to the appropriate supervising field office. The geographic areas within the jurisdiction of the respective BLM State Offices may be found in 43 CFR 1821.2-1.

Comments on the November 19, 1982 proposal were received from 62 entities including lessees, operators, industry associations, Indian Tribes, and our own field offices. The comments from operators ranged from total acceptance of the regulations, as proposed, to total rejection of all provisions. Most of the commenters advised that the proposed regulations were a great improvement over the interim regulations (which were published October 15, 1982 (47 FR 46236), and withdrawn on November 19, 1982 (47 FR 52936)) and the basic thrust of the regulations was appropriate; however, improvements were still in order. Many commenters disagreed with the basic premise that these regulations or any of the specific provisions would deter the actual theft of hydrocarbons by third parties.

The specific comments will be discussed under the individual paragraphs of the regulations to which they apply. However, with the passage of the Royalty Management Act, the questions of whether or not to promulgate regulations that provide minimum standards and whether or not operators should prepare plans that comply therewith are no longer at issue.

Several commenters raised questions about the scope of these rules. These minimum site security regulations also apply to those production and storage facilities located on lands other than Federal or Indian when those lands are committed to unit or communitization agreements which have been federally approved and under which the Federal and Indian leases committed to such agreements are entitled to share in the production from such non-Federal or non-Indian lands.

Also, as a general response to commenters, the rationale for prescribing minimum site security standards is not that these will completely stop the theft of hydrocarbons by third parties. No regulation possibly could do that. Rather, the regulations are intended first, to minimize or eliminate circumstances which exist in the field that could facilitate theft, and second, to make it easier to ascertain when a theft has occurred. Equally important, standards are provided which should minimize conditions that permit the mishandling and subsequent removal of hydrocarbons from storage without proper documentation through a standard system of recordkeeping.

A specific suggestion made by seventeen commenters, and alluded to by many others, concerned the timeframe for compliance with the provisions of the section. The wide variety of suggestions for preparing and submitting plans and facility diagrams ranged from 60 days to 24 months after the final rule is published. The preamble to the proposed rule published on November 19, 1982, provided that the effective date of the final rule would be 60 days after publication. Elsewhere in that preamble, lessees and operators were advised that the contents of schematic diagrams would not be revised substantively and the preparation process should not await the publication of final site security regulations. Because of this initial warning and the reduction in the final rule of some of the anticipated burden of compliance—a subject discussed later in this preamble—it has been determined

that further delay in the implementation of this rule beyond 60 days after its publication is not justified or in the public interest.

Almost all commenters stated that the proposed regulations were unclear. Many suggested that the sequence of the provisions might be causing some of the confusion. The proposed rule was prepared under the assumption that both site security plans and site facility diagrams would be filed with the District Supervisors of the Minerals Management Service. However, we agree with the nearly unanimous comments requesting that the plans be retained by the operators. This change is discussed further under paragaph (c)(2). Therefore, in order to eliminate confusion and clearly indicate what standards have been established, the sequence of the paragraphs is adjusted so that those provisions pertaining to minimum standards, those pertaining to site security plans, and those pertaining to facility diagrams are grouped together respectively. Substantive changes were made only when requested by commenters and where the objective of the rule as proposed is strengthened. A table indicating this re-grouping follows:

Subject	Provision of proposed regulation (§ 221.37)	Provision of final regulation (§ 221.37)
Definitions	None	(a).
Seal requirements	(b)(1)	(b)(1).
Bypass piping & ACT meters	(b)(5)	(b)(2).
Oil storage time	(b)(6)	(b)(3).
Accumulations of waste oil	(b)(7)	(b)(4).
Measurement records and inspections.	(b)(2) & (b)(3) part.	(b)(5).
Facility identification	(b)(8)	(b)(6).
Run ticket aboard trucks	(b)(9)	(b)(7).
Reporting thefts	(e)	(b)(8).
Variance from standards	(c)	(b)(9).
Site security plans	(a) part	(c)(1).
Operator retains plans	(a) part	(c)(2).
Measurement and inspection schedule.	(b)(2) & (b)(3) part.	(c)(3).
Site facility diagrams	(b)(4) and (d)	(d)(1).
Facility diagram format	None	(d)(2).
Facility diagram content	(b)(1) part	(d)(3).
Filing requirements	None	(d)(4).

Definitions. [Paragraph (a)], not in proposed rule.

Many commenters found provisions of the proposed rule unclear and requested that various terms be defined. Most of these terms were of a technical nature and relate to site security only. While § 221.2 provides definitions for the general operating regulations, it was determined that a separate definitions provision should be included in this section, and that this will not adversely affect the general regulatory scheme of Part 221. Definitions are provided for: seals, effectively sealed, closed system, open system, production phase, sales phase and appropriate valves.

Minimum standards. [Paragraph (b)(1)], paragraph (b)(1) in proposed rule.

Every commenter expressed concern about the requirements of the proposed minimum standards. As with the general comments, they ranged from acceptance of the proposed standards to total rejection due to the increased costs of compliance which according to some commenters could lead to early abandonment as a result of loss of profitability. Several commenters were concerned with such items as: what constitutes an appropriate or effectively sealed valve, time for compliance, recordkeeping, and the retention period for records. They were also concerned that the proposal did not restrict the standards to the storage facilities.

It is not possible to cover every variation in production and storage facilities in existence due to the variety of circumstances. Equipment and handling of production are more or less dictated by the type, quantity, and quality of the production, and climatic and topographic considerations. In recognition of this fact, the final minimum standards are directed only at the sales and storage facilities and to the piping system related to such facilities, i.e., fill lines, equalizer lines, sales lines, circulating lines, and drawdown lines. At this time, the standards are not applicable to the production vessels, headers, wellheads, or connections thereon. Based on the definitions provided and considering the various activities that routinely occur at production facilities and the construction of the piping systems, it is believed that valves or connections that could permit unauthorized access to production and undocumented movement of production from the storage or sales facilities can be identified and protected. The seal requirements depend on continuing activity, i.e., any tank from which sales are to be made by hand gauging must, prior to sales, be completely isolated by use of seals. During the sales phase, only the sales outlet valve may be opened. Once the sale is completed, the sales valve is required to be closed and sealed and valves on the other lines opened as needed for production. This standard will not be applicable to sample cocks on storage or wash tanks nor will it apply to production fill lines from separators on gas well installations where each individual well has its own production facilities and contains only one tank for the storage of produced condensate. It will, however, apply to all lines leaving the tank. This exception is being made due to the small volume of production, the frequency of gathering such production, and the volatile nature of condensate.

[Paragraph (b)(2)], paragraph (b)(5) proposed rule.

This minimum standard pertains to Automatic Custody Transfer (ACT) systems and by-pass piping. Since there were no adverse comments to employing meters that have non-resettable totalizers, the final rule retains the requirement that all ACT systems employ meters that have no-resettable totalizers.

However, in response to several comments, the section was rewritten to provide that no by-pass piping is permitted around the ACT or gas meters rather than specifying that no extra piping is permitted without the Supervisor's approval. Permanent installation of such piping around the meters, whether sealed or unsealed, presents opportunity for unauthorized and undocumented removal of production from the leases. In response to several comments, the final regulation provides that equipment which permits changing the orifice plate in gas meter runs without bleeding pressure off the meter run will not be considered a by-pass. If an ACT is to be out of service for a period of time during which lease production would exceed the storage capacity of the facility, the ACT may, with the prior oral approval of the authorized officer, be disconnected from the system and temporary piping installed so that sales may be run via hand gauging of the affected tanks. A number of commenters advised that piping which permits removal of oil or water from storage is necessary to the continuing operation of the lease. This includes removal of oil for lease treating, royalty oil, fuel oil for lease use, water drain lines, and recirculating lines. The final rulemaking does not preclude use of such lines, but does require appropriate safeguards when utilized.

The provisions for preparing, submitting and modifying site facility diagrams (moved from (b)(4) and (d)) are expanded to provide not only the requirement for such diagrams, but also where and when the diagrams are to be filed, their format, and their content. Due to the variety of circumstances encountered at lease sites, it is not possible to derive general production/treating/storage layouts with which compliance would be mandatory without taking away the flexibility operators need to meet specific conditions. Unless operators have been advised in writing to the contrary, the filing of an acceptable facility diagram will constitute temporary approval of

the vessels, tanks, piping, and metering measurement system. The temporary approval may be cancelled or modified following inspection.

Upon inspection, the oprerator will be advised whether the facility remains approved or whether modifications are needed in order to continue approval. Thus, even though the facility diagrams will need to be filed by the effective date of this rule, any needed modifications or corrections will be phased in as facilities are inspected.

[Paragraph (b)(3)], paragraph (b)(6) in proposed rule.

A number of commenters pointed out that operators must retain oil on the lease for lease use such as hydraulic fracturing, other will treatments, and power oil for pumping. In addition, operators may be required to provide storage of royalty oil for up to 30 days. One commenter suggested that minimizing storage time should take into account the economics of transportation. Several commenters advised again in their comments to paragraph (b)(6) that extra piping is necessary for continued operation. Therefore, the paragraph was rewritten to minimize storage time to that needed to accumulate an economic run and to enable the operator to store royalty oil for lease use without consideration of minimizing storage time. The sentence concerning the supervisor's approval of extra piping was deleted for the same reasons discussed previously—that the facility diagram is the mechanism for showing all piping and gaining approval thereof.

[Paragraph (b)(4)], paragraph (b)(7) in proposed rule.

Several commenters stated that the requirement concerning prompt handling of slop or waste oil is redundant and is covered by § 221.36. One commenter suggested that there be proper measurement to assure that this oil is actually "slop or waste oil." This section is retained, as proposed, to emphasize the need to minimize unauthorized transfers of merchantable oil to pits and disposition of salable oil from such pits without prompt royalty payment.

[Paragraph (b)(5)], parts of paragraph (b)(2) & (3) in proposed rule.

A total of 20 comments were received concerning the word "schedule." Operators did not want to be committed to a rigid schedule but wanted flexibility in conducting inspections and recording production based on lease production rates, weather, and road conditions. This recommendation was adopted and the term "with reasonable frequency" has been substituted for the term "on a reasonable schedule." Many commenters suggested that the last sentence in (b)(2) be eliminated and that (b)(2) and (b)(3) be combined into one standard. This has been adopted in the final rulemaking. Commenters also mentioned that no record retention times were given. The final rulemaking provides that records must be retained for 6 years, as required by section 103(b) of the Royalty Management Act.

[Paragraph (b)(6)], paragraph (b)(8) in proposed rule.

Nineteen comments were received on this section. Six commenters questioned the need to identify the meridian on the sign. In view of the fact that there is generally one meridian in most States, and in those instances where there are two or more meridians in a State, the identification of the meridian is not critical to locating the lease, the suggestion has been adopted and the requirement for meridian on the sign has been deleted.

Several commenters were concerned with the requirement that a unique number be placed on each storage tank. They particularly wondered how "unique" the number must be and whether the unique number required by some State regulations would suffice. The purpose of numbering the tanks is simply to set each storage tank apart from the others at any one facility for the purpose of better correlating sales records and for the correct correlation of strapping tables to each tank. This requirement is retained but is modified so that any designation established by State law or rule will satisfy the requirement.

Several commenters indicated that no purpose would be achieved by listing tribal names on signs located on Indian lands. In view of the importance we place on exercising our trust responsibility, this requirement has been retained. This will assure prompt identification of Indian production.

Several commenters pointed out the awkwardness of listing the name of each Indian allottee on the identification sign where there are many allottees involved. This recommendation has been adopted and the section modified to require only that the sign indicate whether the lease is tribal or allotted.

Several commenters were concerned with the placement of identification signs when there are multiple tanks at a storage facility. The language of the section has been modified to allow placing the sign along the entrance to the site or at the tank itself.

Several commenters sought to allow the use of a unit or communitization agreement identification instead of listing all lease numbers. The section has been modified in accordance with this comment.

[Paragraph (b)(7)], paragraph (b)(9) in proposed rule.

Several comments were received concerning the documentation required to be aboard trucks removing oil from Federal and Indian leases. Some commenters suggested that this requirement is duplicative of provisions of NTL's already in effect. It was decided to retain this requirement because it implements certain provisions of the new Royalty Management Act and is also a regulatory basis on which to issue future orders or NTL's on this subject, should the need arise.

Two commenters questioned how multi-truck loads from a single storage tank should be handled with respect to sufficient copies of the run ticket. The present requirements in this regard are contained in NTL–7 and have not been repeated here. Should a need arise for additional or changed requirements in this respect, these will be set forth in proposed new orders or regulations.

One commenter asked about the security of oil once it is in the truck. The security of the product, once it passes the sales point and becomes the property of the purchaser, is primarily the responsibility of the purchaser. However, the Department has new authority under the Royalty Management Act to stop vehicles on and off lease to verify proper documentation when there is probable cause to believe the onboard oil is from or allocated to a Federal or Indian lease.

One commenter questioned why the regulation requires a tank number on the run ticket. The existing NTL–7 requires the lease number on the run ticket, not the tank number. However, in view of the comments received concerning the tank numbers under paragraph (b)(8), the requirement of the new Royalty Management Act, and the need of both the operator and BLM to verify sales, it is appropriate to require that the purchaser identify the tank from which the run was made.

One commenter suggested that run tickets also be required for all waste oil or sump oil. This comment, while pertinent, was not adopted since 30 CFR 221.36 already requires a run ticket to be prepared for oil recovered and sold from pits or other bad oil storage.

[Paragraph (b)(8)], paragraph (e) in proposed rule.

Several comments were received concerning notification in the event of a theft. While there was general agreement that the proposal was a workable improvement over the interim rule, additional modification was requested. The proposed rule required

notification within 24 hours of the discovery of a theft. Most commenters requested a change to allow for notification by the next business day so that thefts found during a weekend could be reported on Monday, without any penalty. This change was adopted and will make the rule more workable without significantly affecting the desired result.

[Paragraph (b)(9)], paragraph (c) in proposed rule.

Since this paragraph deals with variances from minimum standards, it was moved to the minimum standards section. Several commenters advised that it was not clear who would approve a variance request, asked whether or not it would be approved, and suggested it is redundant to request a variance that can only meet or exceed the enumerated minimum standards. Therefore, the paragraph was rewritten to provide that an operator may request a variance from any of the minimum standards and that the variance would be approved if the alternative meets or exceeds the objective of the affected standards. Approvals would be granted or denied by the authorized officer.

Site Security Plans

[Paragraph (c)(1)], part of paragraph (a) in proposed rule.

Several commenters advised that they were not sure when the plans would be due, when facilities should be in compliance with the plans, and what the content of the plans should be since Minerals Management Service had changed the requirement between the interim rule on October 15, 1982, and the publication of the proposed rule on November 19, 1982. In response to these comments the elements of paragraph (a) of the proposed rule dealing with these specific elements have been removed from that paragraph and placed in this new paragraph (c)(1).

As stated previously, this rule is final and will be effective 60 days after its publication in the Federal Register. By no later than the effective date, the plans for existing facilities must be completed, leases must be in compliance with the plan, and notification of plan completion must be submitted. In addition, for new facilities all of these requirements are effective no later than 30 days after completion of construction or first production. Because the wide knowledge of the need for site security plans and facility diagrams spans nearly a year, it is believed that these effective dates are reasonable.

[Paragraph (c)(2)], not in proposed rule.

As previously stated, a substantial number of the comments received favored not filing the site security plan with the Supervisor and proposed, as an alternative, that the plans be maintained at the operator's appropriate field offices. Advantages cited include elimination of the expense of handling and storage of the plans by Bureau of Land Management, a better means of preserving confidentiality of plans, and minimizing mailing and administrative costs. Some commenters suggested that if this proposed change were adopted the operator could be required to submit a letter from each of its involved field offices to the Bureau of Land Management listing all onshore Federal and Indian leases in the BLM district's area of responsibility and indicating that site security plans for these leases are on file and available for inspection during normal working hours at the specified field office location. The proposed rulemaking provision which required that any changes in an existing plan be submitted to the Supervisor was also viewed by the commenters as an inordinate burden on both operators and the government.

Considering that BLM supervises over 17,500 producing leases containing approximately 40,800 active oil and gas wells in 22 states, the above comments have considerable merit. The requirement has been revised accordingly. This change will eliminate the need for an operator to submit plans or revisions thereof to the authorized officer. However, the operator will remain responsible for maintaining all site security plans in a current status and for notifying the appropriate official as plans are completed or conformed to reflect new leases. BLM will inspect the facilities against the minimum standards of this rule and against the facility diagrams required under paragraph (d) of this section. If deficiencies are found during this inspection process, the plan will be obtained and examined to determine if the plan is deficient or if it is only compliance with the plan that is deficient. Depending upon the results of the inspection and plan examination, the operator will be advised of any corrective measures needed to bring the facility and/or the plan into compliance.

One commenter suggested that plans must be filed for approval to assure that facilities are located in environmentally sound locations which are near roads, that they must be filed with any affected Indian Tribes, and that the responsibility should be the lessee's, not the operator's. This commenter also suggested that the authorized officer should draw up comprehensive plans and require the companies to comply with them. With regard to who should prepare the plans, the Royalty Management Act provides that operators are to develop and comply with site security plans which conform to minimum standards prescribed by the Secretary taking into account the variety of circumstances at lease sites. The law does not require that the plans be filed for approval.

Also, the variety of circumstances at lease sites in different regions of the country preclude an authorized officer from drawing up comprehensive plans with which the operator must comply. Section 203 of the Royalty Management Act assures that Indian Tribes may have access to all information, with certain caveats, and while the Department of the Interior will honor the spirit as well as the letter of those provisions, such subject matter does not properly belong in these regulations. It is better handled as a matter of policy, delegation of authority, contracts, or cooperative agreements under Title II of the Royalty Management Act. Also, questions of the environmental soundness of production facility siting are handled under other provisions of the regulations at the time of proposed construction and have little or no connection with site security.

[Paragraph (c)(3)], parts of paragraph (b)(2) & (b)(3) in proposed rule.

Several commenters advised that the regular recording of production volumes and inspection frequencies differ among companies and must be tailored to the variety of circumstances applicable to specific sites. It is also highly dependent on whether company or contract personnel are performing the work. It is agreed that operators must have the flexibility to derive the best procedures to meet the rule's objective for individual sites and that it is not possible to construct a single standard which will fit all circumstances other than the general provisions of paragraph (b)(5) hereof. Thus, the operator's site security plan must state the inspection and recordkeeping method and schedule to be followed by its employees and contractors. If, at the time of inspection, the records pertaining to volume measurements and operator inspections appear inadequate for a specific site, the operator will be advised of any needed corrective measures.

Site Facility Diagrams

[Paragraphs (d)(1) through (d)(4)], part of paragraph (b)(1) and paragraphs (b)(4) and (d) in proposed rule.

Several commenters requested more detail in the provisions relating to site facility diagrams. Such detail is provided by expanding the provisions into four related paragraphs. Many commenters requested additional time

for preparation of the diagrams. However, as the requirement for facility diagrams was included in Part 221 in the final oil and gas operations regulations published on October 27, 1982 (47 FR 47758), additional time is neither necessary nor appropriate. Several commenters questioned the possible disclosure of confidential information. There is no problem with confidentiality since schematic diagrams need only to show the vessels, piping and metering systems. There is no requirement to show alerting devices or systems. Commenters suggested the diagrams be maintained at their field offices for review. This was not accepted because each facility must be inspected by the Bureau of Land Management with the diagram in hand. An operator's representative is not expected to accompany every Departmental inspector during onsite inspections to explain where underground piping is located. The facility diagrams will assure that uniform and consistent inspections are made each time the lease is inspected. The requirement for filing of the diagrams will necessitate little additional filing space or time. Several commenters expressed concern about costs of diagram preparation. A legible free hand schematic will be acceptable. Site facility diagrams are not by themselves expected to deter theft but will assure that the appropriate values are sealed, piping is appropriate, and that any removal of oil can be and is recorded.

Executive Order 12291 on Federal Regulation

A number of commenters took exception to the economic impacts estimated for the proposed rule under Executive Order 12291. They advised that their estimates for industry-wide cost of compliance far exceeded the $7 million estimate cited. These differences in estimated costs reflect only a differing perception of the stringency with which the rule will be applied, the level of detail and expected quality of facility diagrams, and the frequency of operator inspection and volume measurements along with the methods of recording and/or reporting inspections and production records. It is still estimated that such costs would not have exceeded $7 million for some 17,500 producing leases. In addition, as a result of the comments received, the provisions of the proposed rule have been further modified to reduce some of the administrative, recordkeeping, reporting, and performance requirements placed on the operators. These reductions include: (1) A section clarifying the content of facility diagrams to require merely that they be legible and comprehensible to a person of ordinary working knowledge of oilfield operations and equipment; (2) a reduction in data requirements for signs, acceptance of any existing State standards for numbering of tanks and/or identification of facilities, and a provision that new facility signs are not required so long as existing signs reflect the basic data required; and (3) the requirement that site security plans be filed with the authorized officer is changed to allow operators to retain the plans. In addition, the requirement that an operator must schedule inspections and record production volumes is clarified to require only that the operator do so regularly on a reasonable schedule with frequency to be determined by the operator, with the qualification that if inspections and/or examination of the records indicate either to be inadequate for a specific facility, the operator will be required to make appropriate improvements. In general, the operators appear to have been projecting the "worst case" in arriving at their estimates. The intent of this rulemaking has always been to set minimum standards which are not unduly burdensome but which are commensurate with the need to improve site security and, thus, reduce the opportunities for the undocumented removal of crude oil, condensate, and gas from Federal and Indian leases.

The Department has determined that this final rule is not a major rule and does not require the preparation of a regulatory impact analysis under Executive Order 12291 because it is estimated to result in a total economic effect of less than $7 million. Since this amount will be spread among approximately 2,200 operators and 17,500 producible oil and gas leases, the total and individual economic effect is not deemed significant under the terms of the Executive Order.

Regulatory Flexibility Act

A few commenters also felt that a regulatory flexibility analysis under Section 603 of the Regulatory Flexibility Act (5 U.S.C. 601 et seq.) should have been prepared and that Section 604 required one for the final rule. The Department continues to believe that such an analysis is not required and that the determination made under Section 605 was appropriate. That determination was made in August 1982, and the regulatory burden has been substantially reduced twice since that time. According to industry sources, the major continuing cost of these rules, as originally designed, would have been the hiring of additional people to conduct the daily inspections at all facilities. In addition, extensive costs were projected for the preparation of facility diagrams. The commenters estimated that both of these costs would fall more heavily on small independent operators since the burden could not be distributed among many leases and storage facilities. In analyzing the comments and designing the final rule, an effort was made to minimize any such disproportionate impact, while not eliminating the essential elements of the minimum standards. The clarification provided by the new paragraphs (d)(1) through (d)(4) should remove the widely stated fears that the site facility diagram requirement would necessitate the hiring of draftsmen to create professional schematics of all facilities to exacting specifications. The standard for inspection and recording of production volumes in new paragraph (b)(5) has also been clarified to indicate that an inordinate burden will not be placed upon operators beyond what reason dictates. If seasonal conditions require the altering of a general inspection frequency, the plan will so indicate. Additionally, the remoteness and production levels of a facility are expected to be considered along with the relative risk to all interest owners and the opportunities for theft which are present at a specific site. Therefore, the statement published in the proposed rulemaking is determined to be valid and appropriate.

National Environmental Policy Act of 1969

It is hereby determined that this final rulemaking does not constitute a major Federal action significantly affecting the quality of the human environment and that no detailed statement pursuant to section 102(2)(C) of the National Environmental Policy Act of 1969 (42 U.S.C. 4332(2)(C) is required.

Paperwork Reduction Act of 1980

The information collection requirements of the site security plan in 30 CFR 221.37 have been approved by the Office of Management and Budget under 44 U.S.C. 3501 *et seq.* and assigned clearance number 04–0134.

The principal authors of this final rulemaking are Mr. Michael F. Reiz, Albuquerque, New Mexico; Mr. Sylvester J. Fisher, Denver, Colorado; and Mrs. Florence J. Lee, Messrs. Larry P. Bauer, Gerald R. Daniels, John Duletsky, Stephen H. Spector and Eddie R. Wyatt of the headquarters office, Reston, Virginia.

List of Subjects in 30 CFR Part 221

Oil and gas exploration, Public lands/mineral resources, Reporting requirements.

Under the authority of the Act of February 25, 1920, (30 U.S.C. 189), the Federal Oil and Gas Royalty Management Act of 1982 (Pub. L. 97-451), and Executive Order 12291 (3 CFR, 1981 Comp., p. 127), Part 221, Chapter II, Title 30 of the Code of Federal Regulations is amended as set forth below.

Dated: June 14, 1983.

Garrey E. Carruthers,

Assistant Secretary of the Interior.

PART 221—[AMENDED]

Section 221.37, is added to read as follows:

§ 221.37 Site Security on Federal and Indian (except Osage) Oil and Gas Leases.

(a) *Definitions.–Appropriate valves.* Those valves in a particular piping system, i.e., fill lines, equilizer lines, sales lines, circulating lines, drain lines, or other lines, that must be sealed during a given phase of operations.

Authorized Officer (AO). The employee of the Bureau of Land Management who has been delegated the authority to perform the duties described in the specific provision of this section.

Authorized Representative. Any person authorized by the Secretary to perform designated duties by delegation, cooperative agreement, or contract.

Closed system. A piping arrangement from one or more source points to one or more other points in a system which does not have means of access, i.e., flat plugs, bullplugs, blanking caps, open-ended valves, or combinations thereof.

Effectively sealed. The placement of a seal in such a manner that the position of the sealed fitting may not be altered or the fitting removed from the system without the seal being destroyed.

Open system. A piping arrangement from one or more source points to one or more other points in a system which does have a means of access, i.e., flat plugs, bullplugs, blanking caps, open-ended valves, or combinations thereof.

Production phase. That period of time or mode of operation during which crude oil is delivered directly to or through production vessels to the storage facilities.

Proper BLM office. The Bureau of Land Management office having jurisdiction over the lands subject to the regulation in this section. (See 43 CFR 1821.2–1) When two or more offices have jurisdiction over a field or the lands to be unitized, the "proper BLM office" shall be the office having jurisdiction over the majority of the field or unit area when the field is developed or the unit is formed.

Sales phase. That period of time or mode of operation during which crude oil is removed from the storage facilities for sales, transportation or other purposes.

Seal. A device, uniquely numbered, which completely secures a fitting.

(b) *Minimum standards.* Each operator of a Federal or Indian (except Osage) lease shall comply with the following minimum standards:

(1) All appropriate valves on lines entering or leaving oil storage tanks shall be effectively sealed during the production phase and during the sales phase. The piping and connections in a closed system which are tamper proof or tamper resistant are essentially protected from unauthorized or undocumented entry, but the piping and connections in an open system shall be protected. For a minimum of 6 years the operator shall maintain a record of seal numbers used and shall document on which valves or connections they were used as well as when they were installed and removed. The site facility diagram(s) shall show which valves will be sealed in which positions during both the production and sales phase, and shall show whether the piping is an open or closed system.

(2) Each Automatic Custody Transfer (ACT) system shall employ meters that have non-resettable totalizers. There shall be no by-pass piping around the ACT. Similarly, there shall be no by-pass piping around gas meters. Equipment which permits changing the orifice plate without bleeding the pressure off the gas meter run is not considered a by-pass.

(3) Where oil is sold via hand gauged volumes, the operator shall minimize the time that oil is stored on leases to that time needed to accumulate an economic run. The operator may retain that oil needed for use on the lease and to provide for delivery of royalty oil.

(4) The operator will deal promptly with any other accumulations of oil in pits or tanks in accordance with the provisions of § 221.36 and applicable NTL's or onshore orders.

(5) The operator, with reasonable frequency, shall regularly inspect all leases, units, and communitized areas to determine site security and production volumes. The operator shall retain records of such inspections and measurements for 6 years. Such records and measurements shall be available to any authorized officer or authorized representative upon request.

(6) All facilities at which oil is stored shall be clearly identified with a sign that contains the name of the operator, the lease serial number (or communitization or unit agreement identification), and, in public land States, the quarter-quarter, section, township, and range. On Indian leases, the sign also shall include the name of the appropriate Tribe and whether the lease is tribal or allotted. In addition, each storage tank shall be clearly identified by a unique number. The identification shall be maintained in legible condition and shall be clearly apparent to any person at or approaching the sales or transportation point. With regard to the quarter-quarter designation and the unique tank number, any such designation established by state law or rule will satisfy this requirement. Any facility identification which is in existence on the effective date of this rule and which meets the basic information required herein will satisfy this paragraph until such sign is replaced.

(7) Any person removing oil from a facility by motor vehicle shall possess the identification documentation required by applicable NTL's or operating orders while the oil is being removed and transported.

(8) Theft or mishandling of oil from Federal or Indian lease shall be reported to the authorized officer as soon as discovered but not later than the next business day. Said report shall include an estimate of the volume of oil involved. Operators also are expected to report such thefts promptly to local law enforcement agencies and internal company security.

(9) Any operator may request the authorized officer to approve a variance from any of the minimum standards prescribed by this section. The authorized officer shall approve a variance if the proposed alternative meets or exceeds the objective of the applicable standard.

(c) *Site Security Plans.* (1) Site security plans, which include the operator's plan for complying with the minimum standards enumerated in paragraph (b) of this section, shall be completed and the existing facilities shall be in compliance with the plan on September 9, 1983. For facilities constructed after September 9, 1983 conformance with existing plans shall be established or new plans shall be completed no later than 30 days of completion of construction or first production, whichever occurs first, and on that date the facilities shall be in compliance with the plan. At the operator's option, a single plan may

include all of the operator's leases, unit and communitized areas, within a single BLM district, provided the plan clearly identifies each lease, unit, or communitized area included within the scope of the plan and the extent to which the plan is applicable to each lease, unit, or communitized area so identified.

(2) The operator shall retain the plan but shall notify the authorized officer of its completion and which leases, unit and communitized areas are involved. Such notification is due at the time the plan is completed as required by (c)(1) of this section. Such notification shall include the location and normal business hours of the office where the plan will be maintained.

(3) The plan shall include the frequency and method of the operator's inspection and production volume recordation. The authorized officer may, upon examination, require adjustment of the method or frequency of inspection.

(d) *Site Facility Diagrams.* (1) Facility diagrams shall be filed with the authorized officer no later than September 9, 1983 for those facilities in existence on that date. Thereafter, facility diagrams shall be filed within 30 days after new measurement facilities are installed or existing facilities are modified.

(2) No format is prescribed for facility diagrams. They should be prepared on 8½" X 11" paper, if possible, and be legible and comprehensible to a person with ordinary working knowledge of oilfield operations and equipment.

(3) A site facility diagram shall reflect the actual conditions at the site and shall clearly identify the vessels, piping (indicating whether piping is a closed or open system), and metering system which apply to the handling and disposal of oil, gas, and water. The diagram must clearly identify the lease on which the facility is located and the site security plan to which it is subject along with the location of the plan.

(4) Site facility diagrams submitted under this section will satisfy the requirement for facility diagrams appearing at any other section of this part.

[FR Doc. 83-18513 Filed 7-8-83; 8:45 am]
BILLING CODE 4310-84-M

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[Circular No. 2530]

43 CFR Parts 3000, 3040, 3100, 3110, 3120, 3140 and 3150

Minerals Management and Oil and Gas Leasing; Revision of the Regulations Covering Oil and Gas Leasing on Federal Lands

AGENCY: Bureau of Land Management, Interior.

ACTION: Final Rulemaking.

SUMMARY: This final rulemaking revises the provisions of the existing regulations in Groups 300 and 3100 to reduce the regulatory burden imposed on the public, to provide access to public lands in Alaska for oil and gas exploration and development and to achieve a number of miscellaneous purposes under the authority granted the Secretary of the Interior by various statutes.

EFFECTIVE DATE: August 22, 1983

ADDRESS: Inquiries or suggestions should be sent to: Director (530), Bureau of Land Management, 1800 C Street, NW., Washington, D.C. 20240.

FOR FURTHER INFORMATION CONTACT: Jeff Zabler, (202) 343–7753

or

Robert C. Bruce, (202) 343–8735

SUPPLEMENTARY INFORMATION: The proposed rulemaking revising the oil and gas leasing regulations was published in the Federal Register on June 30, 1982 (47 FR 28550). Comments were invited for a period of 60 days during which period a total of 64 comments were received, with 27 coming from corporations, 15 from Federal agencies, 7 from attorneys, 6 from associations, 5 from individuals, 3 from conservation groups and 1 from a State. Comments were also received at a public meeting held in Salt Lake City, Utah, on August 24, 1982. All of the comments, including those made at the public meeting have been given careful consideration during the decisionmaking process on this final rulemaking.

The comments were virtually unanimous in their support of the revisions made by the proposed rulemaking in the regulations and the effort to reduce the regulatory burden imposed on those who apply to lease the public lands for oil and gas operations. One area of general comment raised a question about the use of the title "Mineral Lands Leasing Act of 1920." This Act was not given a title by the Congress and may be properly referred to as either the Mineral Leasing Act of 1920 or the Mineral Lands Leasing Act (30 U.S.C. 181 note). In an effort to use the term that has been used most often by the Department of the Interior, the final rulemaking adopts the use of the title "Mineral Leasing Act of 1920".

Nearly all of the comments contained discussions of specific sections of the proposed rulemaking and recommended changes, some of which have been adopted by the final rulemaking. This preamble will only discuss those sections which were the subject of specific comments or that were changed and will not discuss those sections that did not receive any comments or were not changed.

Section 3000.0–5 Definitions.

The definition section of part 3000 of the proposed rulemaking received a number of comments. The definitions used throughout the proposed rulemaking, including those in section 3000.0–5, have been carefully reviewed in an effort to simplify and clarify the defined terms. The final rulemaking adopts a number of changes suggested in the comments. As an example, the final rulemaking has changed the definitions of the terms "oil" and "gas" as a result of comments, including the recommendation of one comment that the terms need not be defined in these regulations because they are defined in 30 CFR Part 221. Every effort has been made in the final rulemaking, which retains these terms, to make them compatible with the definitions in 30 CFR Part 221.

Another example of a change adopted by the final rulemaking for clarity was the shortening of the definition of the term "party in interest" and the addition of a separate definition of the term "interest." The definition of the term "proper BLM office" has been changed in the final rulemaking to conform to changes previously adopted that made the Wyoming State Office the proper office for filing of all simultaneous oil and gas lease applications. Several comments requested clarification of this term, but after careful review, none of the suggestions for clarification were adopted by the final rulemaking.

Several comments recommended the inclusion of terms in the definition section that are generic in nature and have a clearly understood meaning. It has been determined that the final rulemaking will not include commonly used and understood terms in the definition sections. The addition of these commonly understood terms only increases the regulatory burden without any corresponding benefit. One comment requested that the terms "known geologic structure" and "favorable petroleum geological province" be added to the definitions section of the final rulemaking. Because these two terms are central to the distinction between lands leased competitively and those leased noncompetitively, these terms are defined in Subpart 3100 of the final rulemaking.

Concern was expressed in the comments that the term "surface management agency" did not include those agencies other than the Bureau of Land Management that are part of the Department of the Interior. Departmental agencies other than the Bureau of Reclamation have a statutory role in the issuance of leases and are covered by specific provisions of this final rulemaking. In accordance with Departmental manuals, the Bureau of Reclamation is consulted before a lease is issued on lands under its jurisdiction.

Section 3000.4 Appeals.

Several of the comments pointed out that the proposed rulemaking contained no section covering appeal of decisions issued in connection with the oil and gas leasing program, while the existing regulations did contain such a section. The final rulemaking adds a new section 3000.4 which covers appeals. The addition of this new section required the renumbering of the sections following it in the final rulemaking.

Section 3000.6 Multiple development.

Two comments recommended that § 3000.6 of the proposed rulemaking, renumbered § 3000.7 in the final rulemaking, be deleted because it is superfluous. This section has been retained in the final rulemaking to make it clear that the principle of multiple development will be applicable to lands leased under these regulations.

Section 3045.0–1 Purpose.

Comments on this section of the proposed rulemaking that the section needed to be revised and clarified. Some comments suggested that a notice of intent or permit application be required for all geophysical exploration. Other comments questioned why exploration permits were being required for leased lands in Alaska. One comment sought clarification as to whether this section and its subpart were applicable only to Bureau of Land Management administered lands. In response to the comments, the section has been revised in the final rulemaking to clarify the purpose of this subpart. The subpart is designed to establish procedures for conducting geophysical exploration operations on public lands, which are

defined in § 3045.0–5(b) of this rulemaking as those lands administered by the Secretary of the Interior through the Bureau of Land Management. The requirements of this subpart are applicable to everyone wishing to conduct geophysical operations on the public lands, with the exception of lessees who conduct such operations on lands covered by their leases in the lower 48 States. These lessees are required, however, to meet the bonding requirements set forth in § 3045.4. Further, this subpart is not applicable to lands in the National Wildlife Refuge System. Geophysical operations on such lands will be administered by the Fish and Wildlife Service as a matter of refuge management, as is presently done by the Forest Service for such operations within National Forest System lands.

Section 3045.0–5 Definitions.

The comments on this section of the proposed rulemaking, with the exception of one which requested the addition of the term "authorized officer," suggested minor word changes for clarification. The final rulemaking has not added the term "authorized officer" since that term is defined in § 3000.0–5 which is applicable to all parts of groups 3000 and 3100, including Part 3045.

Section 3045.1 Suspension, revocation or cancellation.

This section has been amended by the final rulemaking to include notices of intent and geophysical exploration permits to clarify the kinds of permits or notices that may be revoked or suspended under this section.

Section 3045.2–2 Notice of completion of operations.

In response to comments on this section of the proposed rulemaking, the final rulemaking has been amended to allow the authorized officer 30 days to notify the operator of any additional action that might have to be taken in connection with the notice of intent rather than the 90 days set out in the proposed rulemaking.

Section 3045.3 Exploration in Alaska.

Sections 3045.3–1 through 3045.3–5 of the proposed rulemaking were the subject of a sizable number of comments which were critical of the procedures and timeframes contained in those sections. To expedite the exploration permitting process, the requirement that the application for an exploration permit be on a form approved by the Director, Bureau of Land Management, has been deleted from § 3045.3–1 by the final rulemaking. Instead, anyone wishing an exploration permit need only submit an application with the minimal information that has been added by the final rulemaking to § 3045.1–3. In addition, § 3045.3–2 has been amended by the final rulemaking to provide for prompt notificaton of the applicant of delays caused by compliance with provisions of the National Environmental Policy Act. In addition, § 3045.3–2(d) has been revised by the final rulemaking to omit all reference to an exploration plan.

Several comments were received on § 3045.3–5 of the proposed rulemaking regarding the roles of the permittee and the authorized officer in approving a modification of an exploration permit. This section has been changed by the final rulemaking to give the authorized officer the authority to approve a modification. Furthermore, all references to "exploration plan" have been changed to "exploration permit" by the final rulemaking to make this section consistent with changes made in other sections.

A number of comments on § 3045.3–6(b) of the proposed rulemaking were critical of the data submission requirements and the public availability of that data. The comments indicated that these provisions were burdensome and would discourage exploration. The final rulemaking provides that all such data will be kept confidential by the Bureau of Land Management until such time as disclosure would not adversely affect the competitive position of the permittee.

Section 3045.4 Bond requirements.

Several comments on the content and format of this section of the proposed rulemaking resulted in changes in the final rulemaking. In response to comments that suggested that this point be clarified, the first paragraph of the final rulemaking makes it clear that the bonding requirement is applicable to both leased and unleased lands. Some comments suggested that the bonding figures of $5,000, $25,000 and $50,000 do not provide adequate protection. The final rulemaking retains the $25,000 and $50,000 bond requirements intact, but establishes $5,000 as a minimum bond.

A few comments felt that the order of paragraphs (b) and (c) of the proposed rulemaking was confusing and that they should be reversed. As suggested by the comments, the final rulemaking reverses the order of these two paragraphs.

Several comments objected to the provision in section 3045.4(b), renumbered § 3045.4(c) by the final rulemaking, for an automatic termination of the liability on the 91st day after the filing of the notice of completion, as being unreasonable. The comments questioned whether 90 days was adequate to make a compliance determination given mitigating factors such as heavy snow cover in Alaska. The Department of the Interior considers 90 days adequate; therefore, the final rulemaking retains the language of the proposed rulemaking.

Section 3100.0–3 Authority.

The comments on this section of the proposed rulemaking expressed concern about the deletion of various statutory authorities that had been a part of the authority section of the existing regulations. As a result of the comments the authority section was carefully analyzed and the final rulemaking restores references to the special Acts for the lands patented to the State of California and for National Forest lands in Minnesota. Also inserted in the final rulemaking are the revisions to the authority section made by regulations promulgated by the National Park Service in their mineral leasing regulations of December 21, 1981 (46 FR 62038).

Section 3100.0–5 Definitions.

This section of the proposed rulemaking was the focus of several comments recommending changes. Among the comments was one that questioned the need for a definition section in Part 3100 since there is a definition section in Part 3000 that provides general definitions for all of group 3000 and group 3100. Even though there is a general definition section in Part 3000, there is a need for definitions that are specifically applicable to Part 3100 and this definition section, which is retained by the final rulemaking, provides that specificity. Several comments suggested the addition of commonly used terms to the definition section. As stated earlier in this preamble, commonly used terms are not included because there is no need to define terms that have a commonly understood meaning.

One comment recommended that the definition of the term "primary term" as used in the proposed rulemaking be expanded to include the provision that a lease may be extended by production or suspension of operations. This recommendation has not been adopted by the final rulemaking because this definition is very specific and does not refer to any extended term. The provisions for extension beyond the primary term are provided in other parts of the rulemaking.

Another comment on this section of the proposed rulemaking suggested the

phrase "obligation to pay rent" contained in the definition of the term "record title" be changed to read "right to pay rent." This suggestion has not been adopted by the final rulemaking because the payment of annual rental is an obligation, not a right.

As suggested by the comments, the terms "favorable petroleum geological structure" and "known geological structure" have been added to the definition section by the final rulemaking. These terms are used throughout Part 3100 and have definite meanings that need to be clarified for the public.

Section 3100.2 Drainage.

A number of comments were received on the various sections of the proposed rulemaking covering drainage. One comment suggested that the United States can only lease for compensating the Federal acreage being drained and cannot enter into some other arrangement for compensation with the owners of those adjacent lands which are the source of the drainage problem. For these reasons, the comments suggested that § 3100.2–1 be rewritten or eliminated from the final rulemaking. After careful consideration, the suggestions were rejected and the final rulemaking retains § 3100.2–1 as it appeared in the proposed rulemaking. The United States must be compensated for any drainage that is occurring on Federal lands and § 3100.2–1 provides flexibility needed to obtain that compensation.

Two comments suggested that the requirement of § 3100.2–2 of the proposed rulemaking that the lessee drill all necessary wells to protect the leased lands from drainage be modified by the final rulemaking to allow the lessee, upon a showing that a well could not be profitably operated, to be relieved of having to drill that particular well. The final rulemaking has not been amended but the wording of the section requiring the lessee to ". . . drill and produce all wells necessary to protect the leased lands . . ." implies that economic considerations will be used in determining what wells, if any, need to be drilled.

Section 3100.3 Competitive and noncompetitive leasing areas.

Several comments were received on §§ 3100.3 through 3100.3–2 of the proposed rulemaking, with most recommending that the terms "known geological structure" and "favorable petroleum geological structure", that are used extensively in these sections, be defined. As stated earlier in this preamble, these terms have been added to the definition section of the final rulemaking.

In response to several comments, § 3100.3–1 of the proposed rulemaking has been clarified by the final rulemaking as to which lands are leased competitively and which are leased noncompetitively. In response to a comment that recommended specific editorial changes to § 3100.3–2 of the proposed rulemaking, the final rulemaking makes several editorial changes that clarify the section.

One comment proposed that the final rulemaking contain a provision requiring that the designation of a known geological structure or favorable petroleum geological province be published in the **Federal Register**. Notices of defined geological structures are published in the **Federal Register**. However, undefined known geological structure determinations are not published because of the nature of the changing boundaries. A public record of all structures, whether defined or undefined, is maintained in the appropriate Bureau of Land Management office. Another comment on this same subject recommended that the rulemaking contain the procedure for reaching these determinations. This recommendation has not been adopted by the final rulemaking because it is a matter of established standard procedures.

Section 3100.4 Options.

Sections 3100.4 through 3100.4–3 of the proposed rulemaking received several comments. One comment suggested that the final rulemaking adopt the language of § 3100.5–5 of the existing regulations on options. This recommendation has not been adopted. The final rulemaking contains the clearer and more concise language of the proposed rulemaking.

The comments suggested that acreage under option not be charged to both parties to an option. The Mineral Leasing Act of 1920 places an acreage limitation on those holding interests in a lease, including options, and until an assignment of lease interest has been approved both parties have an interest in the lease and are chargeable with that interest. The final rulemaking has not adopted this suggestion.

Another comment proposed that language be added to the final rulemaking providing that acreage contained in an option on an offer or application not be chargeable to either party to the option prior to the issuance of the lease. Acreage limitations are properly addressed in § 3101.2 of the proposed rulemaking which has deleted the language of the existing regulations that makes acreage in offers or interests in offers chargeable against the acreage limitation. This proposed change has not been adopted in this section of the final rulemaking.

One comment objected to the option statements required by § 3100.4–3 of the proposed rulemaking, as duplicative of those required in § 3100.4–1. The final rulemaking adopts language which clarifies that the requirements of § 3100.4–3 are intended to update the statements filed under § 3100.4–1.

Section 3101.1 Lease terms and conditions.

A sizable number of comments were received on the lease terms and conditions sections of the proposed rulemaking, with most complaining that special stipulations are not consistent in the way they are applied. Some of the comments suggested rewording of § 3101.1–2, either to retain the wording of the existing regulations at § 3109.2–1 or to provide wording to the effect that stipulations shall not be inconsistent with the purpose for which the lands are leased, or more restrictive than the law specifically authorizes. The Bureau of Land Management is charged by law with the management of the public lands under principles of multiple use while protecting the various resources and the environment. Special stipulations vary widely as a result of variables such as geographic location and the resources that may be present. These special stipulations may be in addition to terms and conditions printed in the lease as mitigating measures for each unique leasing situation. The proposed rulemaking is more specific than the existing regulation on this subject, but the final rulemaking makes changes which provide that stipulations shall become part of leases and leases shall be issued only if the stipulations do not absolutely bar exploration of the resource and the extraction of oil or gas is technically feasible, unless otherwise acceptable to the offeror. This change is designed to preclude the issuance of a lease with stipulations so restrictive as to render the lease useless, unless the offeror does not object to the lease.

One comment objected to the provision of § 3101.1–4 of the proposed rulemaking that made leases subject to future changes in regulations and suggested that the phrase "or later enacted" be deleted. Sections 3101.1–3, Statutes, and § 3101.1–4, Regulations, of the proposed rulemaking have been deleted by the final rulemaking because they are unnecessary. The lease form sets out the laws and regulations to which a lease is subject and it need not be repeated in the regulations.

Section 3101.2 Acreage limitations.

The sections of the proposed rulemaking concerning acreage limitation received several comments, with § 3101.2–4 of the proposed rulemaking being the focus of a number of them. One comment proposed that section 3101.2–4 be expanded in the final rulemaking to include situations where excess acreage is created by a corporate merger or purchase of controlling interest in a corporation. This change has been adopted by the final rulemaking along with a recommendation that the time period for divestiture of such holdings be extended to 180 days, with a provision allowing petition to the authorized officer if further time is required.

The proposed rulemaking was silent on which leases or interests are to be canceled or forfeited to eliminate excess acreage. A comment suggested that the choice should not be the lessee's, while two other comments suggested that the last lease or interest acquired should be the first to be canceled. The final rulemaking contains language requiring that the excess acreage be surrendered in the inverse order of its acquisition.

Section 3101.3 Leases within unit areas.

Two comments were received on the requirement for submission of joinder evidence contained in § 3101.3–1 of the proposed rulemaking, with one comment pointing out that the Minerals Management Service was responsible for receiving such evidence and that this was not clear in the proposed rulemaking. As a result of Secretarial Order 3087, as discussed later in this preamble, the Bureau of Land Management is the proper receiving agency. The final rulemaking adopts language that clarifies this point. The other comment on § 3101.3–1 recommended the deletion of this section and its requirements. This section is retained in the final rulemaking.

Section 3101.4 Lands covered by application to close lands to leasing.

Two comments received on this section of the proposed rulemaking expressed confusion about the use of the word "termination" when referring to the end of the segregative effect of the application to close lands to mineral leasing. For clarity, the final rulemaking substitutes the word "final" for the word "termination."

Section 3101.5 National Wildlife Refuge System lands.

Several comments on this section of the proposed rulemaking expressed concern that other agencies and bureaus within the Department of the Interior were not provided for in the same manner as the Fish and Wildlife Service. With the exception of special provisions for leasing for lands under the jurisdiction of the National Park Service which are covered by special statutes and are included in § 3109.2 of the rulemaking, the Fish and Wildlife Service is the only agency within the Department that has special restrictions on leasing of its lands not covered by general instructions in Departmental manuals. The manuals, which are available to the public, provide instructions on the procedure to be followed in referring the application to the appropriate agency once a lease application has been filed for those lands. It is not necessary to repeat this internal procedure in this rulemaking.

Additional comments on this section of the proposed rulemaking objected to the closing of National Wildlife Refuge System lands to leasing and expressed the view that the Secretary of the Interior lacked the authority to close these lands to leasing. One comment suggested that the final rulemaking be amended to allowing leasing of these lands with a no surface occupancy stipulation. Another comment agreed with the closing of National Wildlife Refuge System lands to leasing, while still another comment suggested that regulations of the Bureau of Land Management should not apply to National Wildlife Refuge System lands, but that leasing of those lands should be covered by regulations of the Fish and Wildlife Service.

The Department of the Interior is continuing to examine oil and gas leasing on National Wildlife Refuge System lands. Until a thorough review of the Department's leasing policy is completed, the Department will make no substantive change in existing regulations covering such lands. In the future, should the Department make any changes in its policy on National Wildlife Refuge System lands, the public will be afforded an opportunity to comment on the proposed changes. The final rulemaking adopts the appropriate language of the existing regulations with respect to National wildlife refuge lands and coordination lands. The language regulating leasing on game ranges has been omitted, because these areas have been redesignated as refuges by statute. A separate subsection has been added to clearly set out the role of the Fish and Wildlife Service in stipulating any leases issued on National Wildlife Refuge System lands that are open to leasing.

Section 3101.7 Federal Lands Administered by an agency outside of the Department of the Interior.

Many comments suggested that the surface management agency be required to provide justification and rational for no-leasing decisions and special stipulations. Reasons for refusal to consent to lease acquired lands cannot be required of the surface management agency by the Department of the Interior. The Mineral Leasing Act for Acquired Lands does not provide for such a requirement. The surface management agency is an adverse party to any decision rendered by the Department to reject an offer because of a refusal to consent to lease, and an appeal to the surface management agency is neither required nor necessary to exhaust administrative remedies within the Department.

Section 3101.8 State's or charitable organization's ownership of surface overlying Federally-owned minerals.

One comment proposed that section 3101.8 of the proposed rulemaking be expanded to require justification from a State or charitable organization when a restrictive stipulation is proposed. The final rulemaking has been amended to adopt this proposal.

Section 3102.2 Aliens.

Several comments were received on section 3102.2 of the proposed rulemaking, with one of the comments raising the point that the proposed rulemaking provided no relief when only one share of stock is held by an alien from a non-reciprocal country, while another comment suggested flexibility in applying the regulations to specific situations where alien control exists. The existing interpretation of the Mineral Leasing Act of 1920, which is the basis of the limitation on alien ownership, finds no provisions for relief or flexibility on this question and the final rulemaking adopts the proposed rulemaking without change.

Another comment suggested that the maintenance of non-reciprocal country lists should not be incorporated into the regulations because the **Federal Register** notice of June 25, 1982 (47 FR 27622), advised that the maintenance of the list was an administrative procedure. Even though the publication of the notice is an administrative procedure, the Secretary of the Interior has the discretionary authority to make it a regulatory

requirement and has decided to do so. Therefore, the final rulemaking retains the language of the proposed rulemaking.

Section 3102.4 Signatures.

Several comments on § 3102.4 of the proposed rulemaking suggested that there be a specific requirement that the signatures be dated. The final rulemaking adopts this suggestion.

Section 3102.5 Evidence.

The comments on this section of the proposed rulemaking were directed primarily to the issue of not requiring substantive evidence of qualification prior to lease issuance on the basis that this will invite fraud. Two comments raised the point that there was no provision for the filing of a power-of-attorney. The changes in the requirements for filing of qualifications documents at the time an offer is filed were adopted by interim final rulemaking on February 26, 1982 (47 FR 8544), and the paperwork reduction and development of an audit procedure were fully discussed. This final rulemaking continues the effort to reduce the regulatory burden imposed on the public, while imposing a spot check audit system that will assure compliance with the requirements of the law that were put forward in the interim final rulemaking.

Section 3103.1–1 Form of remittance.

Several comments on this section of the proposed rulemaking noted that it failed to provide for guaranteed remittance for competitive bonus bid deposits. The final rulemaking provides in Part 3120 that such remittances shall be submitted in the form specified in the sale notice.

Another change made by the final rulemaking makes it clear that the provision for returned unpaid remittances will apply only to remittances for filing fees under Subpart 3112. This provision will prevent abuse of the simultaneous leasing system by applicants stopping payment on their checks after a successful selectee is determined. The provision does not apply to remittances for annual rental returned unpaid. In those instances, the lease will terminate by operation of law, or in the case of the failure to pay the advance first year's rental, the offer will be rejected.

Section 3103.2 Rentals.

The existing regulations treat a deficiency of 10 percent of the advance rental as a curable defect, while the proposed rulemaking requires the deficiency to be cured prior to the issuance of the lease, subject to rejection of the offer. In response to comments on this subject, the final rulameking returns to the procedure in the existing regulations where a minimal deficiency is a curable defect; the lease with such a deficiency will be issued and the remainder to the rental will be required within 30 days by a notice. If the required rental is not submitted within the time allowed, the lease will be cancelled and the first year's rental, to the extent paid, will not be refunded.

Five comments objected to a gross rental payment on fractional interest leases rather than a proportional rental based on the percentage of leased interest. This has been the policy of the Department of the Interior since September 30, 1976, when rental for a fractional interest was made payable at the same rate as a full undivided interest. At that time, the Department justified the change in policy by holding that "the relationship of a fractional interest to the total interest is no more severe than the degree of chance taken in holding a lease to the full mineral interest where the existence of a mineral deposit is unknown" (41 FR 43149). The Department went on to point out that the lessee pays a royalty upon discovery at a rate proportionate to the leased interest. This rationale is still valid today and the policy is retained in this section of the final rulemaking.

Two comments opposed the provision in the proposed rulemaking requiring a full year's rental even if less than a full year remains in the lease term, while one comment supported the requirement. Each year a number of leases that are in extended terms fail to qualify for an additional extension under subpart 3107 because of failure to pay rental for the period beyond the expiration of the initial extended term. In the past, considerable time and expense were expended in efforts to reinstate these leases. This provision, which has been adopted by the final rulemaking, is meant to protect leases from inadvertent termination in such cases. Finally, in those instances where leases are inadvertently cancelled, the Congress has authorized the Secretary of the Interior to reinstate the leases.

One comment, which has been adopted by the final rulemaking, recommended the addition of a new paragraph to § 3103.2–2 to provide for rental amounts on leases not specifically covered by the section. To be consistent in rental amounts, a lease issued in any way other than those specifically set out in the section will be subject to a rental rate of $1 per acre or fraction thereof per year under the newly added paragraph in the final rulemaking.

The final rulemaking also adopts two miscellaneous changes in § 3103.2–2. The first change sets out the Bureau of Land Management's policy to return rental payments made to an improper office and not forward them to the proper office. The second change adds language to bring the final rulemaking into conformity with the Mineral Leasing Act with regard to leases committed to an approved cooperative or unit plan which includes a well capable of producing oil or gas.

Section 3103.3–1 Royalty on production.

Several comments were received on the royalty provisions of the proposed rulemaking, many of which pointed out that a portion of the royalty schedule was omitted from § 3103.3–1 of the proposed rulemaking. This inadvertent error was corrected by the publication of a correction on July 14, 1982 (47 FR 30499). The comments recommended various changes in the royalty rate, all of which have been rejected, with the final rulemaking adopting the language of the proposed rulemaking with no substantive change.

Finally, a new paragraph has been added to this section by the final rulemaking to make it clear that the payment of royalty on the helium component of gas does not give the right to extract the helium.

Section 3103.3–2 Minimum royalties.

One comment objected to not prorating the minimum royalty not being prorated from any lands in which the United States owns an undivided fractional interest. The final rulemaking adopts the provisions of the proposed rulemaking. There are the provisions of § 3130.2–2 of the existing regulations adopted on September 30, 1976, in conjunction with the change in rental policy that was discussed earlier in this preamble. The rationale given at that time is still applicable.

Section 3103.3–3 Limitation on overriding royalties.

A total of eleven comments were received on this section of the proposed rulemaking with all objecting to overriding royalties and production payments that aggregate in excess of 17½ percent being declared null and void by the Secretary of the Interior when the excess constitutes a burden on lease operations. After careful study of the comments and the provisions of this section, the final rulemaking modifies the section to provide that overriding royalties and production payments may

be suspended, rather than declared null and void, by the Secretary.

One comment suggested that the limitation on overriding royalties or production payments be tied to some level of production, while another comment suggested retaining the provision of the existing regulations for suspension of excess overriding royalties or payments out of production when the average production of oil per well per day averaged 15 barrels or less on a monthly basis. The final rulemaking does not adopt the language of the existing regulations because it is inappropriate to tie the suspension of overriding royalties or production payments to a specific production level and take away the Secretary of the Interior's flexibility to consider changing economic and operation conditions in making a decision on suspension.

Section 3103.4–2 Suspension of operations and production.

A comment on § 3103.4–2(c) of the proposed rulemaking recommended that the provision for crediting prepayments contained in § 3103.3–8(c) of the existing regulations be adopted by the final rulemaking. This suggestion has been adopted by the final rulemaking and such a provision added to § 3103.4–2(c).

Subpart 3104—Bonds.

A large number of comments were received on this subpart of the proposed rulemaking. The comments can be divided into two categories. One group of comments suggested that the provision allowing a designated operator to post a bond was not clear and another group suggested that the amount of the bonds was not adequate. In response to the first group of comments, the final rulemaking changes the proposed rulemaking to make it clear that the operator on the ground, whether the approved holder of operating rights or a designated operator, will be bonded. In response to the second set of comments, the bond amounts set in the proposed rulemaking and adopted by the final rulemaking are the minimum amount. The authorized officer is given the authority, after consultation with the appropriate surface managing agency, to increase the amount of bond when conditions warrant.

Two miscellaneous comments were also received on the bonding provisions of the proposed rulemaking. One requested that the regulations clarify what is covered by a bond, whether reclamation or payment of royalty are included. The approved bond forms set out that the bonds are to ensure compliance with all the terms and conditions of the lease which includes all potential liabilities and no further clarification is needed in the regulations. Another comment recommended that the language of §3104.1(c) of the proposed rulemaking be amended to provide that personal bonds be accompanied by a cashier's check or certified check rather than by a guaranteed remittance. This recommended change has been adopted by the final rulemaking.

Subpart 3105—Cooperative Conservation Provisions.

A comment on subpart 3105 of the proposed rulemaking suggested that the subpart should provide that acreage within approved cooperative or unit agreements will not be chargeable against the maximum acreage allowed by law. Such acreage is excluded from chargeable acreage by § 3101.2–3 of the final rulemaking and that language need not be repeated in this subpart.

Another comment on this subpart proposed that surface managing agencies be required to provide input to unit agreements. Unit agreements are approved by the Bureau of Land Management under 30 CFR Part 226 and the provision for coordination between the Bureau of Land Management and the appropriate surface managing agency is not properly a part of this rulemaking and no change has been made by the final rulemaking. Section 3105.1 of the final rulemaking refers to 30 CFR Part 226 for the contents and procedures for obtaining approval of cooperative or unit agreements.

Several comments were received on the provisions covering retroactive approval and dating of communitization agreements. While some of the comments were generally supportive of the provisions, others expressed concern that retroactive approval and dating may lead to problems with expiring leases and such lands being made available for lease under the simultaneous leasing program. In response to these comments, the final rulemaking provides that agreement filed with the authorized officer after the subject Federal lease was due to expire may be approved only if it is filed before notice to the public that the subject lands are available for leasing.

Several comments questioned why the proposed rulemaking required the filing of operating, drilling or development contracts with the Bureau of Land Management when they should be filed with the Minerals Management Service. As a result of Secretarial Order No. 3087, the Bureau of Land Management is the proper receiving agency for these contracts.

Subpart 3106—Assignments and Other Transfers.

Subpart 3106 of the proposed rulemaking was the subject of numerous comments. Four of the comments recommended deletion by the final rulemaking of the provision that assignments of separate zones or deposits or parts of legal subdivisions will not be approved unless it is determined to be in the best interest of the United States. The language complained of is contained in the existing regulations and is an exercise of the authority granted the Secretary of the Interior by the Mineral Leasing Act of 1920 (30 U.S.C. 187a). The provision is retained by the final rulemaking in order to allow the Secretary to exercise this discretionary authority in the best interest of the United States. Generally, it is not in the best interest of the United States to approve assignments of record title to separate zones or deposits, while horizontal assignments of operating interests may be approved.

Three comments recommended that the requirement contained in existing regulations that assignments be filed within 90 days of execution be retained in the final rulemaking. It was pointed out that it is imperative that the official case record be current and complete for use by the Department of the Interior and the public, and that assignments of interest be promptly filed for approval by the Department. In recognition of this fact, the final rulemaking has been modified to incorporate this requirement.

Four comments proposed that assignments of leases or interests in leases be allowed prior to lease issuance. One comment suggested that the prohibition on lease assignment prior to issuance be made applicable only to leases issued under the simultaneous program. In an attempt to make the regulations simpler, consistent and more concise, the requirements for assignments of over-the-counter and simultaneous leases which are, for the most part, similar, have been combined in this subpart of both the proposed and final rulemakings. The final rulemaking has been changed to allow the execution and filing of assignments of an offer to lease or interest in a potential lease prior to lease issuance, but such assignments will not be approved prior to lease issuance to avoid undue burden on the Bureau of Land Management. In addition, the final rulemaking provides that no agreement or option to assign a simultaneous lease interest may be made or given prior to the lease issuance date or 60 days after the date

of selection, whichever occurs first, as a consumer protection measure allowing the offeror a period of time before lease issuance to be free of pressures to assign the lease. The date of selection begins with the posting of the official results of the random selection in the individual State offices.

Seven comments requested deletion of the requirement that the assignment of operating rights be filed on approved forms, or that the final rulemaking modify the proposed rulemaking to allow additional items of information on the assignment form. The assignment form used by the Bureau of Land Management contains all the information that the Bureau requires to approve an assignment and maintain a current record of lease interest for its files. Operating rights assignment forms may be accompanied by supplemental documents such as operating agreements, but the requirement for completion of the approved form is adopted by the final rulemaking and will make the approval process faster and easier.

One comment suggested that the filing fee for assignments of overriding royalty or payments out of production remain at $10 rather than increased to $25. All filing fees, except the noncompetitive lease application filing fee, have been set at $25 to establish consistency in such fees and to meet the costs incurred by the Bureau of Land Management in processing the paperwork. The final rulemaking retains the $25 fee but has been modified to make it clear that a separate filing fee of $25 is required for each lease involved in an assignment.

Section 3106.4–1 Record title and operating rights.

This section has been modified by the final rulemaking to clarify the point that while a separate instrument must be filed for each lease being assigned, one request for approval can cover several assignments to the same assignee(s) which have been submitted at the same time by a qualified applicant(s).

Section 3106.4–2 Royalty interest and production payments.

Several comments expressed confusion about § 3106.4–2 of the proposed rulemaking and requested that it be clarified. In response to these requests, the final rulemaking adds language to this section that makes it clear that the section applies to overriding royalty interests and payments out of production and that an assignment must be filed for each affected lease but does not require approval.

Section 3106.7–2 Continuing responsibility.

One comment on this section of the proposed rulemaking suggested that the section state that lease offers are not used in acreage computations, while a second comment recommended that an assignee not be charged until an assignment is approved. Acreage limitations and chargeability are covered under section 3101.2 of this rulemaking and no change has been made in this section by the final rulemaking.

Section 3106.7–3 Lease account status.

Several comments on § 3106.7–3 of the proposed rulemaking recommended deletion of the continued obligation provision because it is confusing and unworkable. To simplify the rulemaking, the reference to continued obligation has been removed by the final rulemaking, thus preventing approval of an assignment of an interest in a producing lease unless the lease account is in good standing.

Section 3106.7–5 Effect of assignment.

Two comments proposed that this section of the proposed rulemaking should be changed to provide that a lease will be segregated where an undivided record title interest to a portion of the total leased acreage is assigned. It is not in the best interest of the public or the Department of the Interior to segregate lands contained in record title assignments of an undivided interest in a portion of the leased areas into separate leases. All interest, whether full or divided, should be, to the extent possible, maintained in a given parcel of land within the same lease and case record. The final rulemaking adopts the language of the proposed rulemaking.

Section 3106.8–1 Heirs and devisees.

In response to concerns expressed in comments on this section, the final rulemaking adds a paragraph to the section that gives anyone who acquires an interest otherwise forbidden by the regulation in this group, by descent, will, judgment or decree two years from the date of acquisition, to dispose of it, as authorized by 30 U.S.C. 184(g).

Subpart 3107—Continuation, Extension or Renewal

Four comments were received on the provisions of the proposed rulemaking covering the period of extension for a lease on which drilling operations were commenced prior to the end of the lease's primary term. Two of the comments suggested that the continuation run for so long as drilling operations are diligently pursued for wells 12,000 feet or deeper. The other two comments proposed that the expiration date for the lease be extended to 90 days after drilling operations had ceased. These suggested changes have not been adopted by the final rulemaking because the Mineral Leasing Act provides for one two-year extension of leases in such cases (30 U.S.C. 226(e)).

A comment suggested that the last sentence of section 3107.1 of the proposed rulemaking is too general and should be clarified. The language in the last sentence sets out a standard for actual drilling operations to be used in determining if the lease term should be extended. It is the same language that has been successfully used under the existing regulations and is sufficiently general to allow for varied geographic, geological and other factors. Therefore, the final rulemaking adopts the language of the proposed rulemaking.

A comment suggested that § 3107.2–3 of the proposed rulemaking is inconsistent with the Mineral Leasing Act (30 U.S.C. 226(f)). After reviewing the section in conjunction with a study of 30 U.S.C. 226(f), it was concluded that the section conforms to the Act and the final rulemaking adopts the language of the proposed rulemaking. Another comment on this same section recommended that the 60-day period be made flexible. The 60-day period set forth in the proposed rulemaking and adopted by the final rulemaking is statutorily set by the Mineral Leasing Act (30 U.S.C. 226(f)).

A comment on the period of extension for leases committed to a cooperative or unit plan recommended that a lease be extended for so long as drilling operations are diligently pursued and the lease not expire until 90 days after drilling operations have ceased. The extension periods for drilling operations are statutorily set and the recommended change cannot be adopted by the final rulemaking.

One comment suggested that § 3107.3–2 of the proposed rulemaking is inconsistent with the applicable provisions of the Mineral Leasing Act (30 U.S.C. 226(j)). A study of the statutory provisions shows that the provision is consistent with the law and the final rulemaking makes no change in the section.

Two miscellaneous changes have been made by the final rulemaking to subpart 3107. First, the provisions for fixing the duration of a reinstated lease found at section 3108 of the proposed rulemaking have been moved to section

3107.6 of the final rulemaking. A second change is that the provisions for fair and reasonable adjustments of overriding royalties and payments out of production for renewal leases, found in the existing regulations at § 3107.8–3(b), were inadvertently omitted from the proposed rulemaking and have been added as § 3107.8–3(b) by the final rulemaking.

Subpart 3108—Relinquishments, Termination, Cancellation

This subpart of the proposed rulemaking was the subject of only a small number of comments. The subpart does, however, contain several modifications and changes from the existing regulations. The nominal rental deficiency has been increased by the proposed and final rulemakings in consideration of larger lease acreages. In addition, § 3108.3(b) has been modified by the final rulemaking in response to a comment that leases improperly issued shall be subject to cancellation rather than cancelled, as required by the language of the proposed rulemaking. This modification reflects the Department of the Interior's existing practice in considering specific situations.

One comment was received that supported the provisions in the proposed rulemaking that a remittance postmarked on or before the lease anniversary date and received no later than 20 days after the anniversary date meets the requirement of a showing of reasonable diligence and will allow the lease to be continued. The final rulemaking clarifies the provision by making clear that the controlling postmark must be by the U.S. Postal Service, common carrier or its equivalent, and not a postal meter. In addition, the final rulemaking makes a modification in this section that carries forward the goal of reducing the regulatory impact imposed on the public by providing that a remittance that meets the provisions of the section shall be considered as timely paid. Under this change, the lease does not terminate and a Notice of Termination will not be sent by the Bureau of Land Management State Office having jurisdiction of the lands covered by the lease and a petition for reinstatement will not be required.

Subpart 3109—Leasing Under Special Acts

Several comments were received on § 3109.1 of the proposed rulemaking. All of the comments expressed concern that the section as written could cause confusion in its application. In response to these concerns, the final rulemaking completely rewrites the section in an effort to clarify it.

A few comments questioned the authority of the Department of the Interior to limit the application of the Act of May 21, 1930, as set forth in the proposed rulemaking. Since the publication of the proposed rulemaking, the Interior Board of Land Appeals has reaffirmed that the Act of May 21, 1930, is the exclusive leasing authority for oil and gas underlying a right-of-way issued pursuant to the general railroad right-of-way statute, the Act of March 3, 1875. *Champlin Petroleum Co.*, 68 IBLA 142 (1982). The Department has reviewed past decisions and opinions related to right-of-way leasing statutes and found that it has been applied to the 1875 law, to pre-1875 railroad grants and to rights-of-way issued pursuant to the Act of March 3, 1891. No decision or opinion has clearly expanded the right-of-way leasing Act to other types of easements. The right-of-way statutes described above were all construed by the Supreme Court as granting base, or limited, fee title in the right-of-way holder, thus causing the Department to seek special oil and gas leasing authority. No other right-of-way statute has been construed and the need for special leasing authority never existed for any other type of right-of-way. The Department has therefore written the final rulemaking to limit leasing under the Act of May 21, 1930, to rights-of-way which, in 1930, were considered to be a base, or limited, fee.

One comment questioned the imposition of a $25 filing fee for the filing of a right-of-way lease application. A goal of this rulemaking is to establish consistint filing fees and rental amounts based on processing costs and rental value determinations. Since the filing fee for over-the-counter and simultaneous lease applications has been raised to $75, the final rulemaking raises the filing fee for rights-of-way lease applications to $75. Seven comments were received which recommended that the royalty rate for compensatory royalty agreements or leases be set at a rate not less than 12½ percent. This recommendation has been adopted by the final rulemaking.

The regulations covering leasing within particular areas of the National Park System promulgated as a final rulemaking by the National Park Service on December 21, 1981 (46 FR 62038), have been incorporated in this final rulemaking as § 3109.2, with editorial changes.

Subpart 3110—Noncompetitive Leases, General

One comment suggested that § 3110.1–2 of the proposed rulemaking be rewritten to provide that noncompetitive leases shall be considered effective when signed and delivered by the authorized officer. This suggestion has not been adopted by the final rulemaking.

Section 3110.1–3 of the proposed rulemaking was the focus of several comments, with the suggestion that the term "available lands" be defined. This suggestion has not been adopted because the meaning of the term is self-evident and there is no need to define it. Another comment on this section suggested the elimination of the requirement that contiguous available lands be applied for when the offer is for less than 640 acres. The intent of this provision, which is also contained in the existing regulations, is to reduce the administrative burden and promote the proper development of the oil and gas resources of the public lands by requiring leases to be formed in reasonably large blocks. The provision has been adopted by the final rulemaking.

A total of seven comments recommended that § 3110.1–3(a) be rewritten to apply the 640 acre minimum requirement only to public domain lands. This recommendation has been adopted by the final rulemaking and the provision rewritten.

The proposed rulemaking contained a provision in § 3111.1–1(f)(3) for curing offers which nominally exceed the 10,240 acre limitation. The provision has been modified by the final rulemaking to clarify its intent and use, and has been moved to § 3110.1–3(c). If an offer should exceed the 10,240 acre limitation by not more than 160 acres, 30 days will be granted for withdrawal of the excess acreage without loss of priority.

If the offeror fails to withdraw the excess acreage, the offer will be rejected, with a loss of priority.

Two comments were received on § 3110.2 of the proposed rulemaking, with one suggesting reconsideration of the last sentence of the section which provides that an application under Subpart 3112 may not be withdrawn. The other comment requested that the section be clarified with regard to the withdrawal provisions. The section has been revised by the final rulemaking.

Language of the existing regulations has been restored to clarify when an offer may be withdrawn and the requirements pertaining to partial withdrawals. The Department of the

Interior gave careful consideration to the question of withdrawal of offers made under Subpart 3112. A withdrawal of an application made under Subpart 3112 would disrupt the automated selection process now in use. In addition, the administrative cost and burden incurred by the processing of an offer and withdrawal under Subpart 3112 and by reposting those lands for leasing if a lease is not issued are sufficiently great to justify requiring that such offers not be casually made. A selectee may refuse the lease by not signing it and not submitting the first year's rental. The final rulemaking continues the provision that prohibits the withdrawal of offers made under Subpart 3112.

One comment on § 3110.3(a) of the proposed rulemaking recommended that a timeframe be established during which a decision to lease or not lease is made and that any action on an offer as a result of a determination of the existence of a known geological structure or favorable petroleum geological province in Alaska would have to occur during this timeframe. This recommended provision would avoid penalizing offerors for administrative delay in lease issuance. Regardless of the length of time needed to process a noncompetitive offer, the Department of the Interior must, by law, use competitive bidding procedures to issue a lease on lands within a known geological structure or a favorable petroleum geological province. Through streamlining of administrative procedures and providing regulatory relief, the Department has significantly reduced the number of pending offers and the time elapsed prior to lease issuance. For these reasons, the final rulemaking has not adopted the recommendation.

Subpart 3111—Over-the-Counter Offers

A new combined offer to lease and lease form is being developed which will be used for all onshore oil and gas leasing, except for leasing in the National Petroleum Reserve—Alaska. For this reason, the final rulemaking deletes all reference to the current forms from § 3111.1–1(a). As suggested by several comments, § 3111.1–1(a) of the proposed rulemaking has been further amended by the final rulemaking to clarify the point that one original and four copies of each offer are required. The original offer must be manually signed in ink and dated by the offeror or offeror's agent.

One comment requested that § 3111.1–1(c) of the proposed rulemaking be amended to allow offers to include both public domain and acquired lands. The distribution of mineral revenues for each of these types of lands is mandated by law. In most instances, the distribution of revenues collected from public domain lands is different from that for acquired lands. Thus, providing for both public domain and acquired lands on the same lease would create administrative problems and increase the possibility for errors in revenue distribution. For this reason, the final rulemaking has not adopted the suggestion.

Several comments suggested that § 3111.1–1(f) of the proposed rulemaking which pertains to curable defects, be separated from this section and placed elsewhere in the regulations. This suggestion has not been adopted by the final rulemaking. Cures to defects relating to acreage and rentals are properly addressed in the applicable sections of Part 3100; only those defects in the form of an over-the-counter offer are adressed in § 3111.1–1(f). The provision of the proposed rulemaking that a form not correctly reproduced be curable conflicted with the requirements of § 3111.1–1(a) relating to reproduction of the form. The final rulemaking does not adopt the language allowing that improper reproduction may be cured.

The final rulemaking has removed the last sentence of § 3111.1–1(g) of the proposed rulemaking because it implied that the offeror's concurrence is needed for all lease stipulations, when actually certain standard stipulations, many of which cross agency jurisdiction, have been developed which will not require separate concurrence by the offeror. Prospective lessees will continue to be required to concur in any unique or special stipulations.

Section 3111.2–1 of the proposed rulemaking has been changed by the final rulemaking by amending paragraph (c) and deleting paragraph (c)(2). This change eliminates the provisions relating to lease size which were a repetition of the provisions of § 3110.1–3.

In response to several comments, § 3111.2–2(a) of the proposed rulemaking has been expanded by the final rulemaking to incorporate the provisions of § 3101.2–3(a) of the existing regulations which require lands which cannot be conformed to the official survey to be described by metes and bounds.

At the suggestion of a comment, § 3111.3–1 of the proposed rulemaking has been changed by the final rulemaking to protect financial interests of other parties in interest in present operating rights by allowing such other parties to apply for and obtain future interest leases.

The provisions of § 3111.3–2 of the proposed rulemaking have been expanded by the final rulemaking to specifically require an offeror to submit certain evidence as to its present mineral ownership and, if the offeror is another party-in-interest, a statement of such interest and a showing as to all other interests held in the present operating rights.

Subpart 3112—Simultaneous Filing

Subpart 3112 has been rearranged by the final rulemaking to facilitate the reading and understanding of the simultaneous leasing provisions.

The definition of the term "person or entity providing assistance to the participants in the Federal simultaneous oil and gas leasing program" contained in § 3112.0–5 of the final rulemaking is intended to cover not only those entities that perform services commonly known as "filing services" but also those that furnish advice or counseling that is directly related to the filing of simultaneous oil and gas lease applications. Agreements with these types of entities must be identified in the application.

Four comments requested that a time limit be set under § 3112.1–2(a) of the proposed rulemaking, renumbered § 3112.1–1(a) by the final rulemaking, for the posting of unleased lands. Although this request has not been adopted by the final rulemaking, the Bureau of Land Management will make every effort to post such lands within a reasonable time after a lease has been cancelled, terminated, relinquished or has expired. This section has been amended by the final rulemaking by the addition of language that makes it clear that a completed application is one that follows the instructions set out on the application, as well as the requirements of 43 CFR Subpart 3112.

In response to several comments, § 3112.2–1 of the proposed rulemaking has been amended by the final rulemaking to require that separate, completed, signed and dated applications for lands posted in each State office which posts a list of available parcels shall be filed in the Bureau of Land Management's Wyoming State Office. Other clarifying changes made by the final rulemaking to this section include: the requirement that all lease applications be filed on *the* form approved by the Director, Bureau of Land Management; that the name of the applicant be included along with the names of all parties in interest to the lease application; that the application must be signed and dated at the time of signing and that if it is signed by anyone

other than the applicant, the relationship of the signatory to the applicant must be shown; the requirement that separate, properly completed, dated and signed lease applications must be filed, within the designated filing period, in the Wyoming State Office; and other reasons which will cause an application to be deemed unacceptable.

One comment suggested reducing the filing fee to $50 from the presently required $75. The $75 filing fee is needed to ensure the integrity of the leasing system, to decrease casual speculation and to encourage prompt acquisition of leases on Federal lands by those wanting to develop those lands.

Three comments proposed retention of the provision for random selection (drawing) of 3 applications for priority. This proposal has not been adopted by the final rulemaking because experience has shown that the drawing of three applications is likely to cause protests against the first selectees by the second and third selectees, protests which are often found to be without merit. This protest process has drastically slowed the lease issuance process.

The final rulemaking provides in § 3112.1–4(a), renumbered § 3112.4–2, that a reselection from remaining applicants for a parcel will take place if the selected applicant is unacceptable or subject to rejection as set out in § 3112.3. As a matter of equity, this provision will prevent other applicants from being penalized in those instances where the selected application is unacceptable by providing for a reselection rather than a reoffering of a parcel. One comment requested that all original applications be included in any redrawing that is held because an application was omitted from the original drawing selection process. A reselection among all of the original applicants would be grossly unfair to the original selectee. This provision was developed, and is retained by the final rulemaking, to protect the interest of both the original selectee and the applicant(s) whose application was omitted from the original selection process.

Several comments objected to the provision in § 3112.4–1, renumbered § 3112.6 in the final rulemaking, of the proposed rulemaking allowing the addition to the lease of stipulations later determined to be necessary. Only in rare instances will it be necessary to add stipulations that were not included in the parcel list, but in those instances where it is necessary to add such stipulations to protect the public lands and their resources, this authority must be retained. Therefore, the final rulemaking retains the language of the proposed rulemaking.

The provisions of § 3112.4–1 of the proposed rulemaking, which has been renumbered § 3112.6–1 by the final rulemaking, have been expanded by the final rulemaking to specifically provide that the first year's rental may be paid only by the applicant or his/her attorney-in-fact. The conditions of the power-of-attorney under which such attorney-in-fact may act for the applicant have been broadened to require that the applicant waive any and all defenses which may be available to contest, negate or disaffirm the actions of the attorney-in-fact under the power-of-attorney. Two comments on this section recommended elimination of the requirement for the filing of a power-of-attorney with each offer. In order to lessen the burden imposed by the regulations, the final rulemaking amends § 3112.4–1(b)(3), which it renumbers § 3112.6–1(b)(3), to allow references to previously filed powers-of-attorney, together with a statement that it is valid.

The title of § 3112.5 of the proposed rulemaking, which has been renumbered § 3112.3 by the final rulemaking, has been changed to read "Unacceptable and rejected filings," in order to emphasize the point that any application that fails to meet the filing requirements of §§ 3112.2–1 through 3112.2–4 is subject to rejection. The amendment identifies those instances when the Bureau of Land Management finds a filing unacceptable and retains a $75 processing fee and returns the balance of the filing fees, if any, along with the application form to the remitter. Another change in the final rulemaking provides that the application form and filing fees will be returned to the remitter when the Bureau removes a parcel from the parcel lists. Finally, this section of the final rulemaking provides that those applications which are accompanied by no fee or by an unacceptable remittance will not be returned. The circumstances under which an application will be found unacceptable are set forth in the section. The final rulemaking also provides that an applicant who appeals the return of an application, must return the application, together with the filing fee, which shall be retained, regardless of the outcome of the appeal, and a notice of appeal.

In addition, this section of the final rulemaking makes it clear that an appeal filed as a result of the return of an unacceptable filing will not delay the drawing of a successful application or the issuance of a lease. The reasons for returning an application under § 3112.3 of the final rulemaking have been addressed by the Board of Land Appeals of the Office of Hearings and Appeals of the Department of the Interior numerous times and are recognized as fatal technical defects in a filing. The intent of this provision of the final rulemaking is to prevent a delay in lease issuance as a result of protests and appeals that are without merit.

The final rulemaking makes a change that clarifies §§ 3112.6 through 3112.6–3 of the proposed rulemaking, which have been renumbered §§ 3112.5 through 3112.5–3. The sections have been expanded to include language which specifically requires the rejection of all or part of an offer under Subpart 3112 for any lands that are determined to be within a known geological structure of a producing oil or gas field prior to issuance of the lease to be rejected and removed from the offer. In addition, language in these sections that is inconsistent with changes made by the new automated simultaneous oil and gas lease application form have been deleted.

Seven comments requested that § 3112.7 of the proposed rulemaking be clarified. Another four comments recommended retaining the language of § 3112.7 of the existing regulations. The comments were of the view that some definite formula should be established for making lands available for leasing under Subpart 3112 leasable under Subpart 3111, rather than making the decision discretionary with the Bureau of Land Management State Director, based on a determination that a parcel is not favorable for the production of oil or gas and that little or no leasing interest exists. This section has been revised in response to the comments by the final rulemaking. The final rulemaking provides that if no applications are received for a parcel, that parcel will be made available for leasing under Subpart 3111. It goes on to provide that if one or more applications are filed for a parcel and no lease subsequently issues, that parcel will be available for leasing only under Subpart 3112. The amendment also provides that parcels will become available for leasing under Subpart 3111 on the first day of the month following the posting of the results of the selection in the appropriate State office.

Another comment on § 3112.7 recommended retention of the provision for offering for lease under Subpart 3112 lands in addition to those in expired, terminated, cancelled or relinquished leases. This recommendation has been adopted by the final rulemaking by adding such language to § 3112.1–1.

Subpart 3120—Competitive Leases

One comment on § 3120.1(d) of the proposed rulemaking objected to what

was characterized as use of an arbitrary sale method or one that does not allow full public participation. The sale method utilized in § 3120.1(d) is not arbitrary and does allow for public participation. The section has been amended by the final rulemaking in response to a comment that raised the question of whether a lease sold under this section would be subject to the terms and conditions of the existing lease.

A comment proposed that the proposed rulemaking be amended to allow the execution of appropriate documents by agents and attorneys-in-fact for competitive bids. The final rulemaking adopts this recommendation with a change in § 3120.2–4.

The existing regulations provide that the successful high bidder is responsible for a proportionate share of the cost of publication of the notice of sale and a comment noted that this was not provided for in the proposed rulemaking. The final rulemaking adds this requirement to § 3120.4–3.

One comment recommended the elimination of the phrase "highest responsible, qualified bidder" from § 3120.5 of the proposed rulemaking. The phrase has been modified by the final rulemaking. Leases will be awarded to the qualified bidder submitting the highest acceptable bid. The acceptable bid amount is determined by the Bureau of Land Management to ensure that the United States receives fair market value for the leased resource.

The reference to bonding in § 3120.5(b) of the proposed rulemaking has been deleted by the final rulemaking. A bond is not generally required for lease issuance, with the bonding requirement provided for in subpart 3104 of the rulemaking. In addition, the period for return of an executed lease form has been increased from 15 to 30 days after receipt to provide the lessee more time to complete the lease and associated actions.

Two miscellaneous comments were directed to § 3120.8–2 of the proposed rulemaking. The first comment recommended that the Department of the Interior retain lower fractional interest rental and royalty rates. The rates set in the final rulemaking will ensure that the United States receives a fair rate of return on its interest in a valuable resource. The second comment questioned the use of the phrase "date that production is obtained" in § 3120.8–2(b) of the proposed rulemaking. The final rulemaking retains the phrase and refers to the date a resource begins to be sold from a producing well.

On December 3, 1982, the Secretary of the Interior ordered the transfer of certain functions of the Minerals Management Service to the Bureau of Land Management. Secretarial Order No. 3087 dated December 3, 1982, read in part: "All MMS onshore minerals management functions, including resource evaluation, approval of drilling permits and mining or production plans, inspection and enforcement, are transferred to the BLM." Therefore, the final rulemaking changes all references in the proposed rulemaking to the Minerals Management Service or authorized officers thereof to conform with Secretarial Order No. 3087, as amended.

The principal authors of this final rulemaking are Raul E. Martinez, Gregory P. Shoop and Marcia E. Rohn, Division of Oil and Gas, assisted by the staff of the Office of Legislation and Regulatory Management, all of the Bureau of Land Management, and the staff of the Branch of Onshore Minerals of the Office of the Solicitor, Department of the Interior. Assistance was also given by personnel of other Department of the Interior agencies.

The Department of the Interior has determined that this document is not a major rule under Executive Order 12291 and will not have a significant economic effect on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 et seq.).

This final rulemaking is a restatement of existing regulations covering the issuance of oil and gas leases on the public lands. The rulemaking totally revises the language of the existing regulations to reduce the regulatory burden imposed on the affected public and to make the provisions of the regulations easier to read and understand. The change made by the final rulemaking does not make major changes in the procedure used for the issuance of oil and gas leases, procedure that has proven itself over years of use.

While a substantial number of small entities are subject to this final rulemaking, none of the changes are significant. Consequently, the final rulemaking does not impose any significant impacts, positive or negative on small entities.

The information collection requirements contained in 43 CFR Groups 3000 and 3100 have been approved by the Office of Management and Budget under 44 U.S.C. 3507 and assigned clearance numbers 1004–0008, 1004–0034, 1004–0065, 1004–0074, 1004–0128, 1004–0134 and 1004–0145.

List of Subjects in 43 CFR Groups 3000 and 3100

43 CFR Part 3000

Public lands—classification, Public lands—mineral resources.

43 CFR Part 3040

Oil and gas exploration, Public lands—mineral resources.

43 CFR Part 3100

Administrative practice and procedure, Environmental protection, Mineral royalties, Oil and gas reserves, Public lands—classification, Public lands—mineral resources.

43 CFR Part 3110

Administrative practice and procedure, Mineral royalties, Oil and gas exploration, Oil and gas reserves, Public lands—mineral resources.

43 CFR Part 3120

Administrative practice and procedure, Oil and gas exploration, Oil and gas reserves, Public lands—mineral resources.

43 CFR Part 3140

Administrative practice and procedure, Environmental protection, Mineral royalties, Oil and gas reserves, Public lands—mineral resources.

43 CFR Part 3150

Administrative practice and procedure, Mineral royalties, Oil and gas reserves, Public lands—mineral resources.

Under the authority of the Mineral Leasing Act of 1920, as amended and supplemented (30 U.S.C. 181 et seq.), the Mineral Leasing Act for Acquired Lands of 1947, as amended (30 U.S.C. 351–359), the Alaska National Interest Lands Conservation Act (16 U.S.C. 3101 et seq.), the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1701 et seq.), the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 760 et seq.), the Act of May 21, 1930 (30 U.S.C. 301–306), the Omnibus Budget Reconciliation Act of 1981 (Pub. L. 97–35), the Independent Offices Appropriations Act of 1952 (31 U.S.C. 483a), the Department of the Interior Appropriations Act, Fiscal Year 1981 (Pub. L. 96–514) and the Attorney General's Opinion of April 2, 1941 (40 Op. Att. Gen 41), Groups 3000 and 3100, Subchapter C of Title 43 of the Code of

Federal Regulations are amended as set forth below.

James G. Watt,

Secretary of the Interior.

April 28, 1983.

A. Group 3000 is revised as follows:

GROUP 3000—MINERALS MANAGEMENT

Note.—The information collection requirements contained in Parts 3000 and 3040 have been approved by the Office of Management and Budget under 44 U.S.C. 3507 and assigned clearance numbers 1004–0128 and 1004–0145. The information is being collected to allow the authorized officer to determine if the applicant applying to engage in exploratory activity on the public lands is qualified to engage in that activity. This information will be used in making that determination. The obligation to respond is required to obtain a benefit.

PART 3000—MINERALS MANAGEMENT; GENERAL

Subpart 3000—General

Sec.

3000.0–5 Definitions.
3000.1 Nondiscrimination.
3000.2 False statements.
3000.3 Unlawful interests.
3000.4 Appeals.
3000.5 Limit on time to institute suit to contest a decision of the Secretary.
3000.6 Filing of documents.
3000.7 Multiple development.

Authority: Mineral Leasing Act of 1920, as amended and supplemented (30 U.S.C. 181 et seq.), the Mineral Leasing Act for Acquired Lands, as amended (30 U.S.C. 351–359), the Alaska National Interest Lands Conservation Act (16 U.S.C. 3101 et seq.), Federal Land Policy and Management Act of 1976 (43 U.S.C. 1701 et seq.), Federal Property and Administrative Services Act of 1949 (40 U.S.C. 760 et seq.), the Act of May 21, 1930 (30 U.S.C. 301–306), Omnibus Budget Reconciliation Act of 1981 (Pub. L. 97–35), Department of the Interior Appropriations Act, Fiscal year 1981 (Pub. L. 96–514), the Independent Office Appropriations Act of 1952 (31 U.S.C. 483a) and the Attorney General's Opinion of April 2, 1941 (40 Op. Atty. Gen. 41).

Subpart 3000—General

§ 3000.0–5 Definitions.

As used in Groups 3000 and 3100 of this title, the term:

(a) "Gas" means any fluid, either combustible or noncombustible, which is produced in a natural state from the earth and which maintains a gaseous or rarefied state at ordinary temperatures and pressure conditions.

(b) "Oil" means all nongaseous hydrocarbon substances other than those substances leasable as coal, oil shale or gilsonite (including all vein-type solid hydrocarbons).

(c) "Secretary" means the Secretary of the Interior.

(d) "Director" means the Director of the Bureau of Land Management.

(e) "Authorized officer" means any employee of the Bureau of Land Management authorized to perform the duties described in Group 3000 and 3100.

(f) "Proper BLM office" means the Bureau of Land Management office having jurisdiction over the lands subject to the regulations in which the term is used in Group 3000 and 3100, except that: (1) The Wyoming State Office shall be the proper office for applications filed under subpart 3112 of this title; and (2) all oil and gas lease offers and assignments for lands in Alaska shall be filed in the Alaska State Office, Anchorage, Alaska. (See § 1821.2–1 of this title for office location and area of jurisdiction of Bureau of Land Management offices)

(g) "Public domain lands, including mineral estates," means lands which never left the ownership of the United States, lands which were obtained by the United States in exchange and lands which have reverted to the ownership of the United States through operation of the public land laws.

(h) "Acquired lands" means lands which the United States obtained by deed through purchase or gift, or through condemnation proceedings, including lands previously disposed of under the public land laws including the mining laws.

(i) "Anniversary date" means the same day and month in succeeding years as that on which the lease became effective.

(j) "Act" means the Mineral Leasing Act of 1920, as amended and supplemented (30 U.S.C. 181 et seq.).

(k) "Party in interest" means a party who is or will be vested with any legal or equitable rights under the lease. No one is a sole party in interest with respect to an application, offer or lease in which any other party has an interest.

(l) "Interest" means an interest in a lease but is not limited to, record title interests, overriding royalty interests, working interests, operating rights, options or any agreement covering such interests. Any claim or any prospective future claim to an advantage or benefit from a lease, and any participation or any defined or undefined share in any increments, issues or profits which may be derived, or which may accrue, in any manner from the lease based upon, or pursuant to any agreement or understanding existing at the time when the application or offer is filed, constitutes an interest in such lease. "Interest" does not include stock ownership, stockholding or stock control in a lease offer or in a bid, except for purposes of subpart 3112 of this title.

(m) "Surface managing agency" means any Federal agency outside of the Department of the Interior with jurisdiction over the surface overlying Federally-owned minerals.

(n) "Service" means the Minerals Management Service.

(o) "Bureau" means the Bureau of Land Management.

§ 3000.1 Nondiscrimination.

Any person acquiring a lease under this chapter shall comply fully with the equal opportunity provisions of Executive Order 11246 of September 24, 1965, as amended, and the rules, regulations and relevant orders of the Secretary of Labor (41 CFR Part 60 and 43 CFR Part 17).

§ 3000.2 False statements.

Under the provisions of 18 U.S.C. 1001, it is a crime punishable by 5 years imprisonment or a fine of up to $10,000, or both, for any person knowingly and willfully to submit or cause to be submitted to any agency of the United States any false or fraudulent statement(s) as to any matter within the agency's jurisdiction.

§ 3000.3 Unlawful interests.

No member of, or delegate to, Congress, or Resident Commissioner, and no employee of the Department of the Interior, except as provided in 43 CFR Part 20, shall be entitled to acquire or hold any Federal lease, or interest therein. (Officer, agent or employee of the Department—See 43 CFR Part 20; Member of Congress—See R.S. 3741; 41 U.S.C. 22; 18 U.S.C. 431–433.)

§ 3000.4 Appeals.

A party adversely affected by a decision of the authorized officer made pursuant to the provisions of group 3000 or group 3100 of this title shall have a right of appeal pursuant to part 4 of this title.

§ 3000.5 Limitations on time to institute suit to contest a decision of the Secretary.

No action contesting a decision of the Secretary involving any oil or gas lease, offer or application shall be maintained unless such action is commenced or taken within 90 days after the final decision of the Secretary relating to such matter.

§ 3000.6 Filing of documents.

All necessary documents shall be filed in the proper BLM office. A document shall be considered filed when it is received in the proper BLM office during

regular business hours (See § 1821.2 of this title).

§ 3000.7 Multiple development.

The granting of a permit or lease for the prospecting, development or production of deposits of any one mineral shall not preclude the issuance of other permits or leases for the same lands for deposits of other minerals with suitable stipulations for simultaneous operation, nor the allowance of applicable entries, locations or selections of leased lands with a reservation of the mineral deposits to the United States.

PART 3040—EXPLORATION ACTIVITY

Subpart 3045—Geophysical Exploration (Oil and Gas)

Sec.

3045.0–1 Purpose.
3045.0–2 Policy.
3045.0–5 Definitions.
3045.1 Suspension, revocation or cancellation.
3045.2 Exploration outside of Alaska.
3045.2–1 Notice of intent to conduct oil and gas geophysical exploration operations.
3045.2–2 Notice of completion of operations.
3045.3 Exploration in Alaska.
3045.3–1 Application for oil and gas geophysical exploration permit.
3045.3–2 Action on application.
3045.3–3 Renewal of exploration permit.
3045.3–4 Relinquishment of exploration permit.
3045.3–5 Modification of exploration permit.
3045.3–6 Collection and submission of data.
3045.3–7 Completion of operations.
3045.4 Bond requirements.

Authority: Mineral Leasing Act of 1920, as amended and supplemented (30 U.S.C. 181 et seq.), the Mineral Leasing Act for Acquired Lands, as amended (30 U.S.C. 351–359), the Alaska National Interest Lands Conservation Act (16 U.S.C. 3101 et seq.), Federal Land Policy and Management Act of 1976 (43 U.S.C. 1701 et seq.), the Act of May 21, 1930 (30 U.S.C. 301–306), Department of the Interior Appropriations Act, Fiscal Year 1981 (Pub. L. 96–514) and the Independent Offices Appropriations Act of 1952 (31 U.S.C. 483a).

Subpart 3045—Geophysical Exploration (Oil and Gas)

§ 3045.0–1 Purpose.

The purpose of this subpart is to establish procedures for conducting oil and gas geophysical exploration operations on the public lands. The procedures in this subpart do not apply to casual use or to exploration operations conducted by the lessee on leased lands except in Alaska; however, a lessee conducting such operations on a lease shall meet the bonding requirements set out in § 3045.4 of this title. In Alaska, a geophysical exploration permit shall be required on or off leased lands. The provisions of this subpart do not apply to section 1002 of the Alaska National Interest Land Conservation Act or to National Wildlife Refuge System lands.

§ 3045.0–2 Policy.

A notice of intent to conduct oil and gas exploration operations shall be accepted for oil and gas exploration activities in all States where public lands are open to oil and gas leasing with the exception of Alaska. In Alaska, oil and gas exploration activities shall not be conducted on the public lands without the issuance of a geophysical exploration permit. By agreement with a military agency, the Bureau may require a permit for oil and gas geophysical exploration operations on military lands.

§ 3045.0–5 Definitions.

As used in this subpart, the term:

(a) "Oil and gas geophysical exploration" means any activity on the public lands, the surface of which is administered by the Bureau of Land Management, relating to the search for evidence of oil and gas which requires physical presence upon the lands and which may result in damage to the public lands or the resources located thereon. It includes, but is not limited to, geophysical operations, construction of roads and trails and cross-country transit of vehicles over such lands. It does not include core drilling for subsurface geologic information or drilling for oil and gas; these activities shall only be authorized by the issuance of an oil and gas lease and the approval of an application for a permit to drill. The regulations in this subpart, however, are not intended to prevent drilling operations necessary for placing explosive charges, where permissible, for seismic exploration, nor do they affect the exclusive right to drill for oil and gas by a lessee upon the lease premises.

(b) "Public lands" means any lands, the surface of which is owned by the United States, within the several States and administered by the Secretary through the Bureau of Land Management, without regard to how the United States acquired ownership, except:

(1) Lands located on the Outer Continental Shelf; and

(2) Lands held for the benefit of Indians, Aleuts and Eskimos.

(c) "Casual use" means activities that involve practices which do not ordinarily lead to any appreciable disturbance or damage to lands, resources and improvements. For example, activities which do not involve use of heavy equipment or explosives and which do not involve vehicle movement except over established roads and trails are casual use.

§ 3045.1 Suspension, revocation or cancellation.

All notices of intent and oil and gas geophysical exploration permits may be revoked or suspended, after notice, by the authorized officer and upon a final administrative finding of a violation of any term or condition of the instrument, including, but not limited to, terms and conditions requiring compliance with regulations issued under Acts applicable to the public lands and applicable State air and water quality standards or implementation plan. The Secretary may order an immediate temporary suspension of activities authorized under a permit or other use authorization prior to a hearing or final administrative finding if he/she determines that such a suspension is necessary to protect health or safety or the environment. Further, where other applicable law contains specific provisions for suspension, revocation or cancellation of a permit or other authorization to use, occupy or develop the public lands, the specific provisions of such law shall prevail.

§ 3045.2 Exploration outside of Alaska.

§ 3045.2–1 Notice of intent to conduct oil and gas geophysical expoloration operations.

Any person desiring to conduct oil and gas exploration operations, exclusive of those constituting casual use, on public lands outside the State of Alaska shall, prior to entry upon the public lands, file a Notice of Intent to Conduct Oil and Gas Exploration Operations, referred to herein as a notice of intent. The notice of intent shall be filed with the District Manager of the proper BLM office on the form approved by the Director. The completion of and signing of the form by the operator and his/her agent(s) or employee(s) signifies agreement to comply with the terms and conditions contained therein and in this subpart.

§ 3045.2–2 Notice of completion of operations.

Upon completion of exploration, there shall be filed with the District Manager a Notice of Completion of Oil and Gas Exploration Operations. Within 30 days after this filing, the authorized officer shall notify the party who conducted the operations whether all of the terms and conditions set out by the regulations in this subpart and in the notice of intent have been met, or what additional

action shall be required to rehabilitate the lands, specifying the nature and extent of the required action.

§ 3045.3 Exploration in Alaska.

§ 3045.3-1 Application for oil and gas geophysical exploration permit.

Any person wishing to conduct oil and gas exploration operations in Alaska on public lands as defined in this subpart, including the National Petroleum Reserve—Alaska, shall complete an application for an oil and gas geophysical exploration permit. The application shall contain the following information:

(a) The applicant's name and address;

(b) The operator's name and address;

(c) The contractor's name and address;

(d) A description of lands covered by the application by township and range, including a map or overlays showing the lands to be entered and affected;

(e) The period of time when operations will be conducted; and

(f) A plan for conducting the exploration operations.

The application shall be submitted, along with a non-refundable filing fee of $25, to the District Manager of the proper BLM office.

§ 3045.3-2 Action on application.

(a) The authorized officer shall review each application and approve or disapprove it within 90 calender days, unless compliance with the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.) delays this action. The applicant shall be notified promptly in writing of any such delay.

(b) The authorized officer shall include in each geophysical exploration permit special terms and conditions needed to protect the natural land surface, other mineral resources and non-mineral resources. Geophysical permits within the National Petroleum Reserve—Alaska shall contain such conditions, restrictions and prohibitions as the Secretary deems necessary or appropriate to mitigate reasonable adverse effects upon the surface resources of the Reserve and to satisfy the requirement of section 104(b) of the Naval Petroleum Reserves Production Act of 1976 (42 U.S.C. 6504). (See Part 3130 of this title for special stipulations relating to the National Petroleum Reserve—Alaska.)

(c) An exploration permit shall become effective on the date specified by the authorized officer and shall expire 1 year thereafter.

(d) For public lands, as defined in this subpart, subject to section 1008 of the Alaska National Interest Lands Conservation Act, exploration shall be authorized only upon a determination that such activities can be conducted in a manner which is consistent with the purposes for which the affected area is managed under applicable law.

§ 3045.3-3 Renewal of exploration permit.

Upon application by the permittee and payment of a non-refundable filing fee of $25, an exploration permit may be renewed by the authorized officer for a period not to exceed 1 year.

§ 3045.3-4 Relinquishment of exploration permit.

Subject to the continued obligations of the permittee and the surety to comply with the terms and conditions of the exploration permit and the regulations, the permittee may relinquish an exploration permit for all or any portion of the lands covered by it. Such relinquishment shall be filed with the District Manager of the proper BLM office.

§ 3045.3-5 Modification of exploration permit.

(a) A permittee may request, and the authorized officer may approve a modification of an exploration permit.

(b) The authorized officer may, after consultation with the permittee, require modifications he/she determines necessary to the exploration permit.

§ 3045.3-6 Collection and submission of data.

(a) The permittee shall submit to the Bureau all data and information obtained in carrying out the exploration plan.

(b) The Bureau shall not release such data and information and any processed, analyzed and interpreted material until such time as disclosure would not adversely affect, in the opinion of the authorized officer, the competitive position of the permittee.

§ 3045.3-7 Completion of operations.

(a) The permittee shall submit to the authorized officer a completion report within 30 days of completion of all operations under the permit. The completion report shall contain the following:

(1) A description of all work performed;

(2) Charts, maps or plats depicting the areas and blocks in which the exploration was conducted and specifically identifying the lines of geophysical traverses and any roads constructed;

(3) The dates on which the actual exploration was conducted;

(4) Such other information about the exploration operations as may be specified by the authorized officer in the permit; and

(5) A statement that all terms and conditions have been complied with or that corrective measures shall be taken to rehabilitate the lands or other resources.

(b) Within 90 days after the authorized officer receives a completion report from the permittee that exploration has been completed or after the expiration of the permit, whichever occurs first, the authorized officer shall notify the permittee of the specific nature and extent of any additional measures required to rectify any damage to the lands or resources.

§ 3045.4. Bond requirements.

(a) For each planned exploration, the party or parties filing the notice of intent or application for a permit shall simultaneously file, and a lessee, prior to commencing geophysical operations on a lease shall file with the authorized officer a bond, as described in § 3104.1 of this title, in the amount of at least $5,000, conditioned upon full and faithful compliance with all of the terms and conditions of this subpart, the notice of intent, permit or lease. In lieu thereof, the party or parties may file a statewide bond in the amount of $25,000 covering all oil and gas exploration operations in the same State or a nationwide bond in the amount of $50,000 covering all oil and gas exploration operations in the nation. Holders of statewide, nationwide or National Petroleum Reserve—Alaska oil and gas lease bonds shall be permitted to obtain a rider to include the coverage of oil and gas exploration operations.

(b) The authorized officer, on his/her motion, may increase the amount of any bond to be issued or any outstanding bond when additional coverage is needed to ensure protection of the lands and other resources.

(c) The authorized officer shall not consent to the cancellation of the bond or to the termination of liability unless and until all of the terms and conditions of the notice of intent permit or lease have been met. Should the authorized officer fail to notify the party within 90 days of the filing of the notice of completion that all terms and conditions have been met or that additional action shall be required to rehabilitate the lands, liability for that particular exploration operation shall automatically terminate on the 91st day.

B. Group 3100 is amended as follows:

Note.—The information collection requirements contained in Parts 3100, 3110 and 3120 have been approved by the Office of Management and Budget under 44 U.S.C. 3507

and assigned clearance numbers 1004—0008, 1004—0034, 1004—0065, 1004—0074, 1004—0128, 1004—0134 and 1004—0145. The information is being collected to allow the authorized officer to determine if an applicant to lease, explore for or develop Federal oil and gas is qualified to hold such lease. This information will be used in making that determination. The obligation to respond is required to obtain a benefit.

1. Part 3100 is revised to read as follows:

PART 3100—OIL AND GAS LEASING

Subpart 3100—Oil and Gas Leasing; General

Sec.
31.0–3 Authority.
3100.0–5 Definitions.
3100.1 Helium.
3100.2 Drainage.
3100.2–1 Compensation for drainage.
3100.2–2 Drilling and production or payment of compensatory royalty.
3100.3 Competitive and noncompetitive leasing areas.
3100.3–1 Determination of Bureau.
3100.3–2 Date determinative of rights.
3100.4 Options.
3100.4–1 Enforceability.
3100.4–2 Effect of option on acreage.
3100.4–3 Option statements.

Subpart 3101—Issuance of Leases

3101.1 Lease terms and conditions.
3101.1–1 Standard terms.
3101.1–2 Special stipulations.
3101.2 Acreage limitations.
3101.2–1 Public domain lands.
3101.2–2 Acquired lands.
3101.2–3 Excepted acreage.
3101.2–4 Excess acreage.
3101.2–5 Computation.
3101.2–6 Showing required.
3101.3 Leases within unit areas.
3101.3–1 Joinder evidence required.
3101.3–2 Separate leases to issue.
3101.4 Lands covered by application to close lands to mineral leasing.
3101.5 National Wildlife Refuge System lands.
3101.5–1 Wildlife refuge lands.
3101.5–2 Coordination lands.
3101.5–3 Alaska wildlife areas.
3101.5–4 Stipulations.
3101.6 Recreation and public purposes lands.
3101.7 Federal lands administered by an agency outside the Department of the Interior.
3101.7–1 General requirements.
3101.7–2 Submittal to surface managing agency.
3101.7–3 Review by surface managing agency.
3101.7–4 Action by the Bureau of Land Management.
3101.7–5 Appeals.
3101.8 State's or charitable organization's ownership of surface overlying Federal minerals.

Subpart 3102—Qualifications of Lessees

Sec.
3102.1 Who may hold leases.
3102.2 Aliens.
3102.3 Minors.
3102.4 Signatures.
3102.5 Evidence.

Subpart 3103—Fees, Rentals and Royalty

3103.1 Payments.
3103.1–1 Form of remittance.
3103.1–2 Where submitted.
3103.2 Rentals.
3103.2–1 Rental requirements.
3103.2–2 Advance rental payments.
3103.3 Royalties.
3103.3–1 Royalty on production.
3103.3–2 Minimum royalties.
3103.3–3 Limitation on overriding royalties.
3103.4 Promotion of development.
3103.4–1 Waiver, suspension or reduction of rental, royalty or minimum royalty.
3103.4–2 Suspension of operations and production.

Subpart 3104—Bonds

3104.1 Bond obligations.
3104.2 Lessee and operator bonds.
3104.3 Statewide and nationwide bonds.
3104.4 Unit operator's bond.
3104.5 Increased amount of bonds.
3104.6 Where filed and number of copies.
3104.7 Default.
3104.8 Termination of period of liability.

Subpart 3105—Cooperative Conservation Provisions

3105.1 Cooperative or unit agreements.l263105.2 Communitization or drilling agreements.
3105.2–1 Where filed.
3105.2–2 Purpose.
3105.2–3 Requirements.
3105.3 Operating, drilling or development contracts.
3105.3–1 Where filed.
3105.3–2 Purpose.
3105.3–3 Requirements.
3105.4 Combination for joint operations or for transportation of oil.
3105.4–1 Where filed.
3105.4–2 Purpose.
3105.4–3 Requirements.
3105.4–4 Rights-of-way.
3105.5 Subsurface storage of oil and gas.
3105.5–1 Where filed.
3105.5–2 Purpose.
3105.5–3 Requirements.
3105.5–4 Extension of lease term.

Subpart 3106—Assignments and Other Transfers

3106.1 Assignments, general.
3106.2 Qualifications of assignees.
3106.3 Filing fees.
3106.4 Forms.
3106.4–1 Record title and operating rights.
3106.4–2 Royalty interests and production payments.
3106.5 Description of lands.
3106.6 Bonds.
3106.6–1 Lessee's general lease bond.
3106.6–2 Operator's bond.
3106.6–3 Statewide/nationwide bond.
3106.7 Approval of assignment.
3106.7–1 Failure to qualify.
3106.7–2 Continuing responsibility.
3106.7–3 Lease account status.
3106.7–4 Effective date of assignment.
3106.7–5 Effect of assignment.
Sec.
3106.8 Other types of transfer.
3106.8–1 Heirs and devisees.
3106.8–2 Change of name.
3106.8–3 Corporate merger.

Subpart 3107—Continuation, Extension or Renewal

Sec.
3107.1 Extension by drilling.
3107.2 Production.
3107.2–1 Continuation by production.
3107.2–2 Cessation of production.
3107.2–3 Nonproduction from lease capable of production.
3107.3 Extension for terms of cooperative or unit plan.
3107.3–1 Leases committed to plan.
3107.3–2 Segregation of leases committed in part.
3107.3–3 20-year lease or any renewal thereof.
3107.4 Extension by elimination.
3107.5 Extension of leases segregated by assignment.
3107.5–1 Extension after discovery on other segregated portions.
3107.5–2 Undeveloped parts of leases in their extended term.
3107.5–3 Undeveloped parts of producing leases.
3107.6 Extension of reinstated leases.
3107.7 Exchange leases—20-year term.
3107.8 Renewal leases.
3107.8–1 Requirements.
3107.8–2 Application.
3107.8–3 Approval.
3107.9 Other types.
3107.9–1 Payment of compensatory royalty.
3107.9–2 Subsurface storage of oil and gas.

Subpart 3108—Relinquishment, Termination, Cancellation

3108.1 Relinquishments.
3108.2 Termination by operation of law.
3108.2–1 Automatic terminations and reinstatement.
3108.3 Cancellation.
3108.4 Bona fide purchaser.

Subpart 3109—Leasing Under Special Acts

3109.1 Rights-of-way.
3109.1–1 Generally.
3109.1–2 Application.
3109.1–3 Notice.
3109.1–4 Award of lease or compensatory royalty agreement.
3109.1–5 Compensatory royalty agreement or lease.
3109.2 National Park Service Areas.
3109.2–1 Authority to lease.
3109.2–2 Area subject to lease.
3109.3 Wilderness lands.
3109.4 Shasta-Trinity Units of the Whiskeytown-Shasta-Trinity National Recreation Area.

Authority: Mineral Leasing Act of 1920, as amended and supplemented (30 U.S.C. 181 et seq.), the Mineral Leasing Act for Acquired Lands, as amended (30 U.S.C. 351–359), the Alaska National Interest Lands Conservation Act (16 U.S.C. 3101 et seq.), Federal Land Policy and Management Act of 1976 (43 U.S.C. 1701 et seq.), Federal Property and Administrative Services Act of 1949 (40 U.S.C. 760 et seq.), the Act of May 21, 1930 (30

U.S.C. 301–306), Omnibus Budget Reconciliation Act of 1981 (Pub. L. 97–35), Department of the Interior Appropriations Act, Fiscal Year 1981 (Pub. L. 96–514), the Refuge Administration Act of 1966 (16 U.S.C. 668dd–ee), the Independent Offices Appropriation Act of 1952 (31 U.S.C. 483a) and the Attorney General's Opinion of April 2, 1941 (40 Op. Atty. Gen. 41).

Subpart 3100—Onshore Oil and Gas Leasing; General

§ 3100.0–3 Authority.

(a) Public domain:

(1) Oil and gas in public domain lands and lands returned to the public domain under section 2370 of this title are subject to lease under the Mineral Leasing Act of 1920, as amended and supplemented (30 U.S.C. 181 et seq.), by Acts, including, but not limited to, section 1009 of the Alaska National Interest Lands Conservation Act (16 U.S.C. 3148).

(2) *Exceptions.*

(i) National parks and monuments, including lands withdrawn by section 206 of the Alaska National Interest Lands Conservation Act;

(ii) Indian reservations;

(iii) Incorporated cities, towns and villages; and

(iv) Naval petroleum and oil shale reserves and the National Petroleum Reserve—Alaska.

(v) Lands north of 68 degrees north latitude and east of the western boundary of the National Petroleum Reserve—Alaska; and

(vi) Arctic National Wildlife Refuge in Alaska.

(b) *Acquired lands.* (1) Oil and gas in acquired lands are subject to lease under the Mineral Leasing Act for Acquired Lands of August 7, 1947, as amended (30 U.S.C. 351–359).

(2) *Exceptions.* (i) National parks and monuments;

(ii) Incorporated cities, towns and villages;

(iii) Naval petroleum and oil shale reserves and the National Petroleum Reserve—Alaska;

(iv) Tidelands or submerged coastal lands within the continental shelf adjacent or littoral to lands within the jurisdiction of the United States;

(v) Lands acquired by the United States for development of helium, fissionable material deposits or other minerals essential to the defense of the country, except oil, gas and other minerals subject to leasing under the Act;

(vi) Lands reported as excess under the Federal Property and Administrative Services Act of 1949; and

(vii) Lands acquired by the United States by foreclosure or otherwise for resale.

(c) National Petroleum Reserve—Alaska is subject to lease under the Department of the Interior Appropriations Act, Fiscal Year 1981 (Pub. L. 96–514).

(d) Where oil is being drained from lands otherwise unavailable for leasing, there is implied authority in the agency having jurisdiction of those lands to grant authority to the Bureau of Land Management to lease such lands (See 43 U.S.C. 1457; also Attorney General's Opinion of April 2, 1941 (Vol. 40 Op. Atty. Gen. 41)).

(e) Where lands previously withdrawn or reserved from the public domain are no longer needed by the agency for which the lands were withdrawn or reserved and such lands are retained by the General Services Administration, or where acquired lands are declared as excess to the General Services Administration, authority to lease such lands may be transferred to the Department in accordance with the Federal Property and Administrative Services Act of 1949 and the Mineral Leasing Act for Acquired Lands, as amended.

(f) The Act of May 21, 1930 (30 U.S.C. 301–306), authorizes the leasing of oil and gas deposits under certain rights-of-way to the owner of the right-of-way or any assignee.

(g) (1) The Act of May 9, 1942 (56 Stat. 273), as amended by the Act of October 25, 1949 (63 Stat. 886), authorizes leasing on certain lands in Nevada.

(2) The Act of March 3, 1933 (47 Stat. 1487), as amended by the Act of June 5, 1936 (49 Stat. 1482) and the Act of June 29, 1936 (49 Stat. 2026), authorizes leasing on certain lands patented to the State of California.

(3) The Act of June 30, 1950 (16 U.S.C. 508(b)) authorizes leasing on certain National Forest Service Lands in Minnesota.

(4) *National Park Service Areas.* The Secretary is authorized to permit mineral leasing in the following areas if he/she finds that such disposition would not have significant adverse effects on the administration of the area and if lease operations can be conducted in a manner that will preserve the scenic, scientific and historic features contributing to public enjoyment of the area, pursuant to the following authorities:

(i) *Lake Mead National Recreation Area*—The Act of October 8, 1964 (16 U.S.C. 460n et seq.)

(ii) *Whiskeytown Unit of the Whiskeytown-Shasta-Trinity National Recreation Area*—The Act of November 8, 1965 (79 Stat. 1295; 16 U.S.C. 460q *et seq.*).

(iii) *Ross Lake and Lake Chelan National Recreation Areas*—The Act of October 2, 1968 (82 Stat. 926; 16 U.S.C. 90 *et seq.*).

(iv) *Glen Canyon National Recreation Area*—The Act of October 27, 1972 (86 Stat. 1311; 16 U.S.C. 460dd *et seq.*).

(5) *Shasta and Trinity Units of the Whiskeytown-Shasta-Trinity National Recreation Area.* Section 6 of the Act of November 8, 1965 (Pub. L. 89–336; 79 Stat. 1295), authorizes the Secretary of the Interior to permit the removal of leasable minerals from lands (or interest in lands) within the recreation area under the jurisdiction of the Secretary of Agriculture in accordance with the Mineral Leasing Act of February 25, 1920, as amended (30 U.S.C. 181 et seq.), or the Acquired Lands Mineral Leasing Act of August 7, 1947 (30 U.S.C. 351–359), if he finds that such disposition would not have significant adverse effects on the purpose of the Central Valley project or the administration of the recreation area.

§ 3100.0–5 Definitions.

As used in this part, the term:

(a) "Operator" means the person who has control or management of operations on the lease or a portion thereof. The operator may be the lessee or holder of rights acquired by an approved assignment of the operating rights.

(b) "Unit operator" means the person authorized under the agreement approved by the Department of the Interior to conduct operations within the unit.

(c) "Record title" means a lessee's interest in a lease which includes the obligation to pay rent, and the rights to assign and relinquish the lease. Overriding royalty and operating rights are severable from record title interests.

(d) "Operating right" (working interest) means the interest created out of a lease authorizing the holder of that right to enter upon the leased lands to conduct drilling and related operations, including production of oil or gas from such lands in accordance with the terms of the lease. Operating rights may or may not be transferred through an operating agreement.

(e) "Assignor" means the party assigning, subleasing or otherwise transferring to another an interest.

(f) "Assignee" means the party to whom a lease or an interest therein is being assigned, subleased or otherwise transferred.

(g) "National Wildlife Refuge System Lands" means lands and water, or

interests therein, administered by the Secretary as wildlife refuges, areas for the protection and conservation of fish and wildlife that are threatened with extinction, wildlife management areas or waterfowl production areas.

(h) "Designated operator" means the party designated by the lessee or holder of operating rights to conduct operations on the lease or a portion thereof.

(i) "Actual drilling operations" includes not only the physical drilling of a well, but the testing, completing or equipping of such well for production.

(j)(1) "Primary term" of lease subject to section 4(d) of the Act prior to the revision of 1960 (30 U.S.C. 226–1(d)) means all periods of the life of the lease prior to its extension by reason of drilling or production of oil and gas in paying quantities; and

(2) "Primary term" of all other leases means the initial term of the lease. For competitive leases, except those within the National Petroleum Reserve—Alaska, this means 5 years and for noncompetitive leases this means 10 years. The primary term of leases within the National Petroleum Reserve—Alaska shall not exceed 10 years.

(k) "Favorable petroleum geological province" "(FPGP)" means an area in Alaska as delineated by the authorized officer, within which oil or gas has been discovered, or within which available data indicate that there is a high probability that oil and gas will be discovered.

(l) "Known geological structure" "(KGS)" means technically the trap in which an accumulation of oil or gas has been discovered by drilling and determined to be productive, the limits of which include all acreage that is presumptively productive.

§ 3100.1 Helium.

The ownership of and the right to extract helium from all gas produced from lands leased or otherwise disposed of under the Act have been reserved to the United States.

§ 3100.2 Drainage.

§ 3100.2–1 Compensation for drainage.

Upon a determination by the authorized officer that lands owned by the United States are being drained of oil or gas by wells drilled on adjacent lands, the authorized officer may execute agreements with the owners of adjacent lands whereby the United States and its lessees shall be compensated for such drainage. Such agreements shall be made with the consent of any lessee affected by an agreement. Such lands may also be offered for lease in accordance with Part 3120 of this title.

§ 3100.2–2 Drilling and production or payment of compensatory royalty.

Where lands in any leases are being drained of their oil or gas content by wells either on a Federal lease issued at a lower rate of royalty or on non-Federal lands, the lessee shall both drill and produce all wells necessary to protect the leased lands from drainage. In lieu of drilling necessary wells, the lessee may, with the consent of the authorized officer, pay compensatory royalty in the amount determined in accordance with 30 CFR 221.21.

§ 3100.3 Competitive and noncompetitive leasing areas.

§ 3100.3–1 Determination by Bureau.

The authorized officer shall determine the boundaries of known geological structures of producing oil or gas fields outside of Alaska and favorable petroleum geological provinces in Alaska. All lands within such boundaries shall only be leased competitively to the highest responsible qualified bidder. All other lands shall be leased, noncompetitively, if at all, to the first qualified applicant.

§ 3100.3–2 Date determinative of rights.

If the producing character of a structure or the favorable nature of a geological province in Alaska is actually determined by the authorized officer prior to the date of the official pronouncement of the Bureau on that subject, the date that the determination is made and not the date of pronouncement establishes whether the lands shall be leased competitively.

§ 3100.4 Options.

§ 3100.4–1 Enforceability.

(a) No option to acquire any interest in a lease shall be enforceable if entered into for a period of more than 3 years (including any renewal period that may be provided for in the option) without the approval of the Secretary.

(b) No option or renewal thereof shall be enforceable until a signed copy or notice or option has been filed in the proper BLM office. Each such signed copy or notice shall include:

(1) The names and addresses of the parties thereto;

(2) The serial number of the lease to which the option is applicable;

(3) A statement of the number of acres covered by the option and of the interests and obligations of the parties to the option; and

(4) The interest to be conveyed and retained in exercise of the option. Such notice shall be signed by all parties to the option or their duly authorized agents. The signed copy of notice of option required by this paragraph shall contain or be accompanied by a signed statement by the holder of the option that he/she is the sole party in interest in the option; if not, he/she shall set forth the names and provide a description of the interest therein of the other interested parties, and provide a description of the agreement between them, if oral, and a copy of such agreement, if written.

§ 3100.4–2 Effect of option on acreage.

The acreage to which the option is applicable shall be charged both to the grantor of the option and the option holder. The acreage covered by an unexercised option remains charged during its term until notice of its relinquishment or surrender has been filed in the proper BLM office.

§ 3100.4–3 Option statements.

Each option holder shall file in the proper BLM office within 90 days after June 30 and December 31 of each year duplicate statements showing as of the prior June 30 and December 31, respectively, any changes to the statements submitted under § 3100.4–1(b) of this title.

(a) His/her name and address and the name and address of each grantor of an option held by him/her, the serial number of every lease subject to option;

(b) Date and expiration date of each option;

(c) Number of acres covered by each option;

(d) Aggregate number of options held in each State, and the total acreage thereof; and

(e) A statement of his/her interest and obligation under each option; provided, that the statement of his/her interest and obligation with respect to any option shall not be required where such interests and obligations have been set forth in the notice required under § 3100.4–1(b) of this title and there have been no changes in such interests and obligations since such filing.

Subpart 3101—Issuance of Leases

§ 3101.1 Lease terms and conditions.

§ 3101.1–1 Standard forms.

All leases shall be issued on an appropriate form approved by the Director and shall be subject to the terms and conditions printed in the form.

§ 3101.1-2 Special stipulations.

The authorized officer may require stipulations in addition to those contained in the lease form as conditions to leasing. These stipulations and stipulations required by an agency other than the Bureau shall become part of the lease and the lease shall be issued only if either: (a) The stipulations do not absolutely bar exploration of the resource and extraction is technically feasible; or (b) the lease as stipulated is otherwise acceptable to the offeror. Stipulations which become part of the lease shall supersede any inconsistent provisions printed in the lease form. This includes among others, the regulations in this group and in 30 CFR Parts 221, 223, 225 and 226.

§ 3101.2 Acreage limitations.

§ 3101.2-1 Public domain lands.

(a) No person or entity shall take, hold, own or control more than 246,080 acres of Federal oil and gas leases in any one State at any one time. No more than 200,000 acres of such acres may be held under option.

(b) In Alaska, the acreage that can be taken, held, owned or controlled is limited to 300,000 acres in the northern leasing district and 300,000 acres in the southern leasing district, of which no more than 200,000 acres may be held under option in each of the 2 leasing districts. The boundary between the 2 leasing districts in Alaska is the left limit of the Tanana River from the boundary between the United States and Canada to the confluence of the Tanana River and Yukon River and the left limit of the Yukon River from said confluence to its principal southern mouth.

§ 3101.2-2 Acquired lands.

An acreage limitation separate from, but equal to the acreage limitation for public domain lands described in § 3101.2-1 of this title, applies to acquired lands. Where the United States owns only a fractional interest in the mineral resources of the lands involved in a lease, only that part owned by the United States shall be charged as acreage holdings. The acreage embraced in a future interest lease shall not be charged as acreage holdings until the lease for the future interest becomes effective.

§ 3101.2-3 Excepted acreage.

Leases committed to any unit or cooperative plan approved or prescribed by the Secretary and leases subject to an operating, drilling or development contract approved by the Secretary, other than communitization agreements, shall not be included in computing accountable acreage.

§ 3101.2-4 Excess acreage.

(a) Where, as the result of the termination or contraction of a unit or cooperative plan, the elimination of a lease from an operating, drilling or development contract a party holds or controls excess accountable acreage, said party shall have 90 days from that date to reduce the holdings to the prescribed limitation and to file proof of the reduction in the proper BLM office. Where as a result of a merger or the purchase of the controlling interest in a corporation, acreage in excess of the amount permitted is acquired, the party holding the excess acreage shall have 180 days from the date of the merger or purchase to divest the excess acreage. If additional time is required to complete the divestiture of the excess acreage, a petition requesting additional time, along with a full justification for the additional time, may be filed with the authorized officer prior to the termination of the 180 day period provided herein.

(b) If any person or entity is found to hold accountable acreage in violation of the provisions of these regulations, lease(s) or interests therein shall be subject to cancellation or forfeiture in their entirety, until sufficient acreage has been eliminated to bring the lessee within the acreage limitation. Excess acreage or interest shall be cancelled in the inverse order of acquisition.

§ 3101.2-5 Computation.

The accountable acreage of a party owning an undivided interest in a lease shall be the party's proportionate part of the total lease acreage. The accountable acreage of a party who is the beneficial owner of more than 10 percent of the stock of a corporation which holds Federal oil and gas leases shall be the party's proportionate part of the corporation's accountable acreage. Parties to a contract for development of leased lands and co-lessees shall be charged with their proportionate interests in the lease. No holding of acreage in common by the same persons in excess of the maximum acreage specified in the laws for any one lessee shall be permitted.

§ 3101.2-6 Showing required.

At any time the authorized officer may require any lessee or operator to file with the Bureau of Land Management a statement showing as of specified date the serial number and the date of each lease in which he/she has any interest, in the particular State, setting forth the acreage covered thereby.

§ 3101.3 Leases within unit areas.

§ 3101.3-1 Joinder evidence required.

Before issuance of a lease for lands within an approved unit, the lease offeror shall file evidence with the proper BLM office of having joined in the unit agreement and unit operating agreement or a statement giving satisfactory reasons for the failure to enter into such agreement. If such statement is acceptable to the authorized officer the lessee shall be permitted to operate independently but shall be required to conform to the terms and provisions of the unit agreement with respect to such operations.

§ 3101.3-2 Separate leases to issue.

A noncompetitive lease offer for lands partly within and partly without the boundary of a unit shall result in separate leases, one for the lands within the unit, and one for the lands outside the unit.

§ 3101.4 Lands covered by application to close lands to mineral leasing.

Offers filed on lands within a pending application to close lands to mineral leasing shall be suspended until the segregative effect of the application is final.

§ 3101.5 National Wildlife Refuge System lands.

§ 3101.5-1 Wildlife refuge lands.

(a) Wildlife refuge lands are those lands embraced in a withdrawal of public domain and acquired lands of the United States for the protection of all species of wildlife within a particular area. Sole and complete jurisdiction over such lands for wildlife conservation purposes is vested in the Fish and Wildlife Service even though such lands may be subject to prior rights for other public purposes or, by the terms of the withdrawal order, may be subject to mineral leasing.

(b) No offers for oil and gas leases covering wildlife refuge lands shall be accepted and no leases covering such lands shall be issued except as provided in § 3100.2 of this title. There shall be no drilling or prospecting under any lease heretofore or hereafter issued on lands within a wildlife refuge except with the consent and approval of the Secretary with the concurrence of the Fish and Wildlife Service as to the time, place and nature of such operations in order to give complete protection to wildlife populations and wildlife habitat on the areas leased, and all such operations shall be conducted in accordance with

the stipulations of the Bureau on a form approved by the Director.

§ 3101.5–2 Coordination lands.

(a) Coordination lands are those lands withdrawn or acquired by the United States and made available to the States by cooperative agreements entered into between the Fish and Wildlife Service and the game commissions of the various States, in accordance with the Act of March 10, 1934 (48 Stat. 401), as amended by the Act of August 14, 1946 (60 Stat. 1080), or by long-term leases or agreements between the Department of Agriculture and the game commissions of the various States pursuant to the Bankhead-Jones Farm Tenant Act (50 Stat. 525), as amended, where such lands were subsequently transferred to the Department of the Interior, with the Fish and Wildlife Service as the custodial agency of the United States.

(b) Representatives of the Bureau and the Fish and Wildlife Service shall, in cooperation with the authorized members of the various State game commissions, confer for the purpose of determining by agreement those coordination lands which shall not be subject to oil and gas leasing. Coordination lands not closed to oil and gas leasing shall be subject to leasing on the imposition of such stipulations as are agreed upon by the State Game Commission, the Fish and Wildlife Service and the Bureau.

§ 3101.5–3 Alaska wildlife areas.

No lands within a refuge in Alaska open to leasing shall be available until the Fish and Wildlife Service has first completed compatability determinations.

§ 3101.5–4 Stipulations.

Leases shall be issued subject to stipulations prescribed by the Fish and Wildlife Service as to the time, place, nature and condition of such operations in order to minimize impacts to fish and wildlife populations and habitat and other refuge resources on the areas leased. The specific conduct of lease activities on any refuge lands shall be subject to site-specific stipulations prescribed by the Fish and Wildlife Service.

§ 3101.6 Recreation and public purposes lands.

Under the Recreation and Public Purposes Act, as amended (43 U.S.C. 869 et seq.), all lands within Recreation and Public Purposes leases and patents are subject to lease under the provisions of this part, subject to such conditions as the Secretary deems appropriate.

§ 3101.7 Federal lands administered by an agency outside of the Department of the Interior.

§ 3101.7–1 General requirements.

(a) Acquired lands shall only be leased with the consent of the surface managing agency.

(b) Public domain lands shall only be leased after the Bureau of Land Management has consulted with the surface managing agency, unless consent is required by law.

§ 3101.7–2 Submittal to surface managing agency.

Upon receipt of a noncompetitive lease offer under subpart 3111 of this title or upon the availability of lands under subpart 3112 or 3120 of this title, the surface of which is not under the jurisdiction of the Bureau of Land Management, the authorized officer shall submit a description of the lands involved to the appropriate office of the surface managing agency for review.

§ 3101.7–3 Review by surface managing agency.

The surface managing agency shall report to the authorized officer as follows:

(a) As to lands on which consent of the surface managing agency is required, that it consents to leasing with special stipulations, if any, or that it withholds its consent;

(b) As to lands on which consultation with the surface managing agency is required, that it concurs in or recommends leasing with special stipulations, if any, or recommends against leasing, providing reasons therefor.

§ 3101.7–4 Action by the Bureau of Land Management.

(a) Where the surface managing agency has consented to leasing with required stipulations, and the Secretary decides to issue a lease, the authorized officer shall incorporate the stipulations into any lease which it may issue. The authorized officer may add additional stipulations.

(b) The authorized officer shall not issue a lease and shall reject any lease offer on lands for which the surface managing agency withholds consent required by statute. In all other instances, the Secretary has the final authority and discretion to decide to issue a lease.

(c) The authorized officer shall review all recommendations and shall accept all reasonable recommendations of the surface managing agency.

§ 3101.7–5 Appeals.

(a) The decision of the authorized officer to reject an offer to lease or to issue a lease with special stipulations recommended by the surface managing agency may be appealed to the Interior Board of Land Appeals under part 4 of this title.

(b) Where the surface managing agency has required that special stipulations be included in a lease or has refused to consent to leasing, an affected lease offeror may pursue the administrative remedies provided by the particular surface managing agency.

§ 3101.8 State's or charitable organization's ownership of surface overlying Federally-owned minerals.

Where the United States has conveyed title to, or otherwise transferred the control of the surface of the lands containing oil and gas to any State or political subdivision, agency or instrumentality thereof, or a college or any other educational corporation or association, or a charitable or religious corporation or association, with reservation of the oil and gas rights to the United States, such party shall be given written notification of the offer to lease by certified mail and shall be given a reasonable time, not to exceed 90 days, within which to suggest any lease stipulations deemed necessary for the protection of existing surface improvements or uses, to set forth the facts supporting the necessity of the stipulations and also to file any objections it may have to the issuance of the lease. Where a party controlling the surface opposes the issuance of a lease or wishes to place such restrictive stipulations upon the lease that it could not be operated upon or become part of a drilling unit and hence is without mineral value, the facts submitted in support of the opposition or request for restrictive stipulations shall be given consideration and each case decided on its merits. The opposition to lease or necessity for restrictive stipulations expressed by the party controlling the surface affords no legal basis or authority to refuse to issue the lease or to issue the lease with the requested restrictive stipulations for the reserved minerals in the lands; in such case, the final determination whether to issue an with what stipulations, or not to issue the lease depends upon whether or not the interests of the United States would best be served by the issuance of the lease.

Subpart 3102—Qualifications of Lessees

§ 3102.1 Who may hold leases.

Leases may be acquired and held only by citizens of the United States; associations (including partnerships and trusts) of such citizens; corporations organized under the laws of the United States or of any State or Territory thereof; and municipalities.

§ 3102.2 Aliens.

Leases or interests therein may be acquired and held by aliens only through stock ownership, holding or control; and only if the laws, customs or regulations of their country do not deny similar or like privileges to citizens or corporations of the United States. A list of those countries which do not provide "similar or like" privileges is available from any Bureau of Land Management office.

§ 3102.3 Minors.

Leases shall not be acquired or held by one considered a minor under the laws of the State in which the lands are located, but leases may be acquired and held by legal guardians or trustees of minors in their behalf.

§ 3102.4 Signatures.

All applications, offers competitive bids, assignments and requests for approval of an assignment shall be holographically (manually) signed in ink and dated by the present or potential lessee or by anyone authorized to sign on behalf of the present or potential lessee. Documents signed by anyone other than the present or potential lessee shall be rendered in a manner to reveal the name of the present or potential lessee, the name of the signatory and their relationship. Submission of a qualifications number shall not meet this requirement, except for offers filed under § 3112.6–1(b)(3) of this title. (Example: John Smith, agent for Mary Jones; or ABC Corporation, agent for Mary Jones by John Smith.) Machine or rubber stamped signatures shall not be used.

§ 3102.5 Evidence.

Submission of an application for, offer for or request for approval of an assignment of a lease issued under the act, constitutes certification of compliance with the regulations of this group and the act. Compliance means that the potential lessee, all other parties who hold an interest (as defined in § 3100.0–5(k) of this title) and all persons who are members of an association in the application, offer, assignment or lease and all parties who hold or control more than 10 percent of the instruments of ownership or control in a lessee which is a corporation or association are: (a) Citizens of the United States or qualified stockholders in a domestic corporation (see § 3102.2 of this title); (b) in compliance with the Federal acreage limitations (see § 3101.2 of this title); (c) not minors (see § 3102.3 of this title); and (d) not participants in any agreement, scheme, plan or arrangement prohibited in relation to simultaneous oil and gas leasing (see § 3112.5–1(b) of this title). Anyone seeking to acquire, or anyone holding, a Federal oil and gas lease or interest therein, shall upon demand submit additional information to show compliance with the regulations of this group and the act. Additional information concerning agents/attorneys-in-fact shall be required for offers filed under § 3112.6–1 of this title.

Subpart 3103—Fees, Rentals and Royalty

§ 3103.1 Payments.

§ 3103.1–1 Form of remittance.

All remittances shall be by U.S. currency, postal money order or negotiable instrument payable in U.S. currency. Persons who remit filing fees under the simultaneous oil and gas leasing program whose remittances are returned unpaid shall be assessed a $10 service charge for each remittance. Applicants shall be barred from filing applications for or acquiring leases until after the returned remittances are redeemed and the service charge paid.

§ 3103.1–2 Where submitted.

(a) All filing fees for lease applications, offers or for applications for approval of an instrument of transfer, and all rentals on nonproducing and nonunitized leases shall be paid to the proper BLM office. All remittances shall be made payable to the Bureau of Land Management.

(b) All rentals and royalties on producing leases, communitized leases in producing well units, unitized leases in producing unit areas, leases on which compensatory royalty is payable and all payments under subsurface storage agreements and easements for directional drilling shall be paid to the Service.

§ 3103.2 Rentals.

§ 3103.2–1 Rental requirements.

(a) Each offer shall be accompanied by full payment of the first year's rental based on the total acreage, if known, and, if not known, on the basis of 40 acres for each smallest legal subdivision. An offer deficient in the first year's rental by not more than 10 percent or $200, whichever is less, shall be accepted by the authorized officer provided all other requirements are met. Rental submitted shall be determined based on the total amount remitted less all required fees. The additional rental shall be paid within 30 days from notice of the deficiency under penalty of cancellation of the lease.

(b) Rental shall not be prorated for any lands in which the United States owns an undivided fractional interest but shall be payable for the full acreage in such lands.

§ 3103.2–2 Advance rental payments.

Rentals shall be paid on or before the anniversary date of the lease. A full year's rental shall be required even if less than a full year remains in the lease term. Failure to make timely payment shall cause a lease to terminate automatically by operation of law. If the proper BLM office is not open on the anniversary date, payment received on the next day the proper BLM office is open to the public shall be deemed to be timely filed. Payments made to an improper BLM office shall be returned and shall not be forwarded to the proper BLM office. Rental shall be payable at the following rates:

(a) On leases issued under subpart 3112 of this title, an annual rental of $1 per acre or fraction thereof for each of the first 5 lease years and an annual rental of $3 per acre or fraction thereof for each remaining lease year;

(b) On leases issued under subpart 3111 of this title, an annual rental of $1 per acre or fraction thereof;

(c) On competitive leases, an annual rental of $2 per acre or fraction thereof;

(d) On lands within a lease issued under subpart 3111 of this title after the effective date of this regulation which is later determined to be within a known geologic structure outside of Alaska or a favorable geologic province in Alaska, the annual rental shall be $2 per acre or fraction thereof beginning with the first lease year after the expiration of 30-days notice to the lessee. During the first 5 years of the lease term, the same rental increase is applicable to leases issued under subpart 3112 of this title.

(e) On exchange or renewal leases issued after the effective date of this regulation, the annual rental shall be $2 per acre or fraction thereof;

(f) On leases issued in any other way, an annual rental of $1 per acre or fraction thereof;

(g) Rental shall not be due on acreage for which royalty is being paid;

(h) The annual rental for leases issued prior to the effective date of this regulation is as established in the lease; and

(i) On lands within a lease issued under subparts 3111 and 3112 of this title, and committed to an approved cooperative or unit plan which includes a well capable of producing oil or gas and contains a general provision for allocation of production, the rental described for the respective lease years in paragraphs (a) and (b) of this section shall apply to the acreage not within a participating area.

§ 3103.3 Royalties

§ 3103.3–1 Royalty on production.

(a) Royalty on production shall be payable only on the mineral interest owned by the United States. The following royalty rates shall be paid on production removed or sold from leases:

(1) 12½ percent royalty on noncompetitive leases;

(2) Such rates as are prescribed in the notice of sale in the case of all leases issued by competitive bidding;

(3) From lands within exchange and renewal leases, the rate of royalty shall be identical to that prescribed in the prior leases, except that for a lease issued in exchange for or as a renewal of a lease carrying a flat royalty rate of 5 percent to the United States, the royalty rate shall be as follows:

(i) When the average production of oil for the calendar month in barrels per well per day is:

Not over 110, the royalty rate shall be 12½ percent;

Over 110, but not over 130, the royalty rate shall be 18 percent of all production;

Over 130, but not over 150, the royalty rate shall be 19 percent of all production;

Over 150, but not over 200, the royalty rate shall be 20 percent of all production;

Over 200, but not over 250, the royalty rate shall be 21 percent of all production;

Over 250, but not over 300, the royalty rate shall be 22 percent of all production;

Over 300, but not over 350, the royalty rate shall be 23 percent of all production;

Over 350, but not over 400, the royalty rate shall be 24 percent of all production; and

Over 400, the royalty rate shall be 25 percent of all production.

(ii) On gas, including inflammable gas, helium, carbon dioxide and all other natural gases and mixtures thereof, and on casinghead gasoline and other liquid products obtained from gas, when the production per well per calendar day for the month is:

Not in excess of 5 million cubic feet, the royalty rate shall be 12½ percent of the amount or value of the gas and liquid products produced; and

In excess of 5 million cubic feet, the royalty rate shall be 16⅔ percent of the amount or value of the gas and liquid products produced.

(b) The average production per well per day for oil and gas shall be determined pursuant to 30 CFR Part 221, "Oil and Gas Operating Regulations."

(c) In determining the amount or value of gas and liquid products produced, the amount or value shall be net after the cost of manufacture. The allowance for cost of manufacture may exceed two-thirds of the amount or value of any product only with the approval of the Secretary.

(d) The Secretary may establish reasonable values for purposes of computing royalty rates on any or all oil, gas, natural gasoline and other liquid products obtained from gas, due consideration being given to the highest price paid for a part or for a majority of production of like quality in the same field, to the price received by the lessee, to posted prices and to other relevant matters. In appropriate cases, this will be done after notice to the parties and opportunity to be heard.

(e) Payment of a royalty on the helium component of gas shall not convey the right to extract the helium. Applications for the right to extract helium shall be made under 43 CFR Part 16.

§ 3103.3–2 Minimum royalties.

(a) On leases issued on or after August 8, 1946, and on those issued prior thereto, if the lessee files an election under section 15 of the Act of August 8, 1946, a minimum royalty of $1 per acre in lieu of rental shall be payable at the expiration of each lease year after a discovery has been made on the leased lands commencing with the lease year, beginning on or after the date of such discovery; except that on unitized leases, the minimum royalty shall be payable only on the participating acreage. If the actual royalty paid during any year aggregates less than $1 per acre, the lessee shall pay the difference at the expiration of the lease year.

(b) Minimum royalties shall not be prorated for any lands in which the United States owns a fractional interest but shall be payable on the full acreage of the lease.

(c) Minimum royalties and rentals on non-participating acreage shall be payable to the Service until the lease accounts on the non-participating acreage are returned to the Bureau of Land Management.

§ 3103.3–3 Limitation on overriding royalties.

An agreement creating overriding royalties or payments out of the production of oil and gas which, when added to overriding royalties or payments out of production previously created and to the royalty payable to the United States, aggregate in excess of 17½ percent may be suspended by the Secretary at any time upon a determination that the excess constitutes a burden on lease operations to the extent that proper and timely development may be retarded, or continued operation of the lease impaired, or premature abandonment of the wells caused. The limitations in this section shall apply separately to any zone or portion of a lease segregated for computing royalty due the United States.

§ 3103.4 Promotion of development.

§ 3103.4–1 Waiver, suspension or reduction of rental, royalty or minimum royalty.

(a) In order to encourage the greatest ultimate recovery of oil or gas and in the interest of conservation, the Secretary, upon a determination that is necessary to promote development or that the leases cannot be successfully operated under the terms provided therein, may waive, suspend or reduce the rental or minimum royalty or reduce the royalty on an entire leasehold, or any portion thereof.

(b)(1) An application for the above benefits shall be filed in triplicate in the proper BLM office. It shall contain the serial number of the leases, the proper BLM office name, the name of the record title holder and operator or sub-lessee, the description of the lands by legal subdivision and a description of the relief requested.

(2) Each application shall show the number, location and status of each well drilled, a tabulated statement for each month covering a period of not less than 6 months prior to the date of filing the application of the aggregate amount of oil or gas subject to royalty, the number of wells counted as producing each month and the average production per well per day.

(c) Every application shall contain a detailed statement of expenses and costs of operating the entire lease, the income from the sale of any production and all facts tending to show whether the wells can be successfully operated upon the fixed royalty or rental. Where the application is for a reduction in royalty, full information shall be

furnished as to whether royalties or payments out of production are paid to others than the United States, the amounts so paid and efforts made to reduce them. The applicant shall also file agreements of the holders to a reduction of all other royalties from the leasehold to an aggregate not in excess of one-half the royalties due the United States.

§ 3103.4–2 Suspension of operations and production.

(a) Applications for relief from production requirements or from operating requirements shall be filed in triplicate in the proper BLM office. No suspension of operations and production shall be granted except where the authorized officer directs or consents to a suspension in the interest of conservation. Complete information shall be furnished showing the necessity of such relief.

(b) The term of any lease shall be extended by adding thereto any period of suspension of all operations and production during such term pursuant to any direction or assent of the authorized officer.

(c) A suspension shall take effect as of the time specified in the direction or assent of the authorized officer. Rental and minimum royalty payments shall be suspended during any period of suspension of all operations and production directed or assented to by the authorized officer beginning with the first day of the lease month on which the suspension of operations or production becomes effective or if the suspension of operations and production becomes effective on any date other than the first day of a lease month, beginning with the first day of the lease month following such effective date. The suspension of rental and minimum royalty payments shall end on the first day of the lease month in which the operations or production is resumed. Where rentals are creditable against royalties and have been paid in advance, proper credit shall be allowed on the next rental or royalty due under the terms of the lease.

(d) No lease shall be deemed to expire during a suspension of either operations or production.

(e) If there is a well capable of producing on the lease and all operations and production are suspended, the commencement of drilling operations shall be regarded as terminating the suspension of operations but not the suspension of production, and as terminating the period to be added to the term of the lease as provided in paragraph (b) of this section and the period of suspension of rental and minimum royalty payments as provided in paragraph (c) of this section.

(f) The relief authorized under this section may also be obtained for any lease included within an approved unit or cooperative plan of development and operation.

Subpart 3104—Bonds

§ 3104.1 Bond obligations.

(a) Prior to the commencement of drilling operations, the lessee or operator or designated operator shall submit a surety or personal bond as described in this subpart.

(b) Surety bonds shall be issued by qualified surety companies approved by the Department of the Treasury (See Department of the Treasury Circular No. 570).

(c) Personal bonds shall be accompanied by:

(1) Cash;

(2) Cashier's check;

(3) Certified check; or

(4) Negotiable Treasury bonds of the United States of a value equal to the amount specified in the bond. Negotiable Treasury bonds shall be accompanied by a proper conveyance to the Secretary of full authority to sell such securities in case of default in the performance of the terms and conditions of the lease.

§ 3104.2 Lessee and operator bonds.

(a) A lessee's general lease and drilling bond shall be in an amount of not less than $10,000 conditioned upon compliance with all the terms and conditions of the lease.

(b) An operator's bond in an amount of not less than $10,000 conditioned upon compliance with all of the terms and conditions of the lease, may be furnished in lieu of a general lease and drilling bond, if the operator holds the operating rights or is a designated operator. Where 2 or more operators have interests in different formations or portions of the lease, each operator may file an operator's bond in his/her own name as principal on the bond in lieu of the lessee's bond. The operator on the ground, whether approved or designated, shall be covered by either a general lease and drilling bond or an operator's bond.

§ 3104.3 Statewide and nationwide bonds.

(a) In lieu of general lease and drilling bonds or operator's bonds, lessees or operators may furnish a bond in an amount of not less than $25,000 covering all leases and operations in any one State.

(b) In lieu of general lease and drilling bonds, operator's bonds or statewide bonds, lessees or operators may furnish a bond in an amount of not less than $150,000 covering all leases or operations nationwide.

§ 3104.4 Unit operator's bond.

The approved unit operator may furnish and maintain a unit operator bond conditioned upon faithful performance of the duties and obligations of the agreement and the terms and conditions of every lease subject thereto in lieu of a separate general lease and drilling bond or operator's bond for each lease committed to the unit agreement. All unit operator's bonds shall be furnished upon request and in the amount recommended by the authorized officer.

§ 3104.5 Increased amount of bonds.

The authorized officer may elect to increase the amount of any bond to be issued or any outstanding bond when additional coverage is determined appropriate.

§ 3104.6 Where filed and number of copies.

All bonds shall be filed in the proper BLM office on a form approved by the Director. A single copy executed by the principal or, in the case of surety bonds, by both the principal and an acceptable surety is sufficient.

§ 3104.7 Default.

(a) Where, upon a default, the surety makes a payment to the United States of an obligation incurred under a lease, the face amount of the surety bond or personal bonds and the surety's liability thereunder shall be reduced by the amount of such payment.

(b) After default, upon penalty of cancellation of all of the leases covered by such bond, that principal shall either post a new bond or increase the existing bond to the amount previously held by the United States, within 6 months after notice, or within such shorter period as may be fixed by the authorized officer. In lieu thereof, the principal may within that time file separate or substitute bonds for each lease or operating agreement.

§ 3104.8 Termination of period of liability.

The authorized officer shall not give consent to termination of the period of liability of any bond unless an acceptable alternative bond has been filed or until all the terms and condition of the lease have been met.

Subpart 3105—Cooperative Conservation Provisions

§ 3105.1 Cooperative or unit agreement.

The suggested contents of such an agreement and the procedures for obtaining approval are contained in 30 CFR Part 226.

§ 3105.2 Communitization or drilling agreements.

§ 3105.2-1 Where filed.

(a) Requests to communitize separate tracts shall be filed, in triplicate, with the proper BLM office.

(b) Where a duly executed agreement is submitted for final Departmental approval, a minimum of 3 signed counterparts shall be submitted. If State lands are involved, 1 additional counterpart shall be submitted.

§ 3105.2-2 Purpose.

When a lease or a portion thereof cannot be independently developed and operated in conformity with an established well-spacing or well-development program, the authorized officer may approve communitization or drilling agreements for such lands with other lands, whether or not owned by the United States, upon a determination that it is in the public interest. Operations or production under such an agreement shall be deemed to be operations or production as to each lease committed thereto.

§ 3105.2-3 Requirements.

The agreement shall describe the separate tracts comprising the drilling or spacing unit, shall show the apportionment of the production or royalties to the several parties and the name of the operator, and shall contain adequate provisions for the protection of the interests of the United States. The agreement shall be signed by or on behalf of all necessary parties and shall be effective only if approved by the authorized officer. Approved communitization agreements are considered effective from the date of the agreement or from the date of the onset of production from the communitized parcels, whichever is earlier. Execution by, or on behalf of, all necessary parties to a communitization agreement covering a Federal lease shall precede the expiration of that lease in order to confer the benefits of the agreement upon it. Generally, a lessee should file a communitization agreement for approval by the authorized officer as soon as the agreement has been signed by, or on behalf of, all necessary parties. An agreement filed with the authorized officer for approval after the subject Federal lease was due to expire may be approved only if it is filed before the Bureau has given notice to the public that the subject lands are available for lease. No communitization agreement shall be approved with respect to lands which have been subsequently leased to a different lessee. The original agreement need not be in the form required for approval by the Bureau, but may be any agreement between lessees and operators, such as an operating agreement, evidencing the intent of the parties to combine, and having the effect of combining, their leases or interests for operational purposes. If the agreement that combined such leases or interests is other than a formal communitization agreement acceptable for filing and approval as such, the parties shall submit such an agreement in proper form, which, if submitted and approved, shall be deemed effective as of the date of the earlier agreement between the parties that combined their leases or interests or, as of the date of the onset of production from the communitized parcels, whichever is earlier.

§ 3105.3 Operating, drilling or development contracts.

§ 3105.3-1 Where filed.

A contract submitted for approval under this section shall be filed with the proper BLM office, together with enough copies to permit retention of 5 copies by the Department after approval.

§ 3105.3-2 Purpose.

Approval of operating, drilling or development contracts ordinarily shall be granted only to permit operators or pipeline companies to enter into contracts with a number of lessees sufficient to justify operations on a scale large enough to justify the discovery, development, production or transportation of oil or gas and to finance the same.

§ 3105.3-3 Requirements.

The contract shall be accompanied by a statement showing all the interests held by the contractor in the area or field and the proposed or agreed plan for development and operation of the field. All the contracts held by the same contractor in the area or field shall be submitted for approval at the same time and full disclosure of the projects made.

§ 3105.4 Combination for joint operations or for transportation of oil.

§ 3105.4-1 Where filed.

An application under this section together with sufficient copies to permit retention of 5 copies by the Department after approval shall be filed with the Director.

§ 3105.4-2 Purpose.

Upon obtaining approval of the authorized officer, lessees may combine their interests in leases for the purpose of constructing and carrying on the business of a refinery or of establishing and constructing as a common carrier a pipeline or lines or railroads to be operated and used by them jointly in the transportation of oil or gas from their wells or from the wells of other lessees.

§ 3105.4-3 Requirements.

The application shall show a reasonable need for the combination and that it will not result in any concentration of control over the production or sale of oil and gas which would be inconsistent with the anti-monopoly provisions of law.

§ 3105.4-4 Rights-of-way.

Rights-of-way for pipelines may be granted as provided in part 2880 of this title.

§ 3105.5 Subsurface storage of oil and gas.

§ 3105.5-1 Where filed.

(a) Applications for subsurface storage shall be filed in the proper BLM office.

(b) Enough copies of the final agreement signed by all the parties in interest shall be submitted to permit the retention of 5 copies by the Department after approval.

§ 3105.5-2 Purpose.

In order to avoid waste and to promote conservation of natural resources, the Secretary, upon application by the interested parties, may authorize the subsurface storage of oil and gas, whether or not produced from lands owned by the United States. Such authorization shall provide for the payment of such storage fee or rental on the stored oil or gas as may be determined adequate in each case, or, in lieu thereof, for a royalty other than that prescribed in the lease when such stored oil or gas is produced in conjunction with oil or gas not previously produced.

§ 3105.5-3 Requirements.

The agreement shall disclose the ownership of the lands involved, the parties in interest, the storage fee, rental or royalty offered to be paid for such storage and all essential information showing the necessity for such project.

§ 3105.5-4 Extension of lease term.

Any lease used for the storage of oil or gas shall be extended for the period

of storage under an approved agreement. The obligation to pay annual lease rent continues during the extended period.

Subpart 3106—Assignments and Other Transfers

§ 3106.1 Assignments, general.

(a) Leases may be assigned as to all or part of the acreage in the lease or as to either a divided or undivided interest therein. An assignment of a separate zone or deposit or of part of a legal subdivision shall be disapproved unless the necessity of the assignment is established and it is determined that such assignment is in the best interest of the United States. The rights of the assignee to a lease or an interest therein shall not be recognized by the Department until the assignment has been approved by the authorized officer. An application for approval of any instrument of transfer of a lease or interest in a lease shall be filed within 90 days from the date of execution. The 90-day filing period shall begin on the date the assignor signs and dates the assignment. Assignments filed after the 90th day may be approved provided the assignor and assignee state to the proper BLM office that the assignment is still in force and provided that no intervening assignment(s) involving all or part of the interest(s) being assigned has been filed for approval. An assignment of production payments or overriding royalty shall be filed in the proper BLM office but shall not require approval. An assignment may be withdrawn, in writing signed by the assignor and the assignee, if the assignment has not already been approved by the authorized officer.

(b) No assignment of an offer to lease or interest in a lease shall be approved prior to the issuance of the lease. No agreement or option to assign a simultaneous oil and gas lease or interest therein shall be made or given prior to the issuance date of the lease or 60 days from the date of selection, whichever comes first. The existence of such a prior agreement or option shall result in disapproval of the subsequent assignment.

§ 3106.2 Qualifications of assignees.

Assignees shall comply with the provisions of subpart 3102 of this title and post any bond that may be required.

§ 3106.3 Filing fees.

In order to be accepted for filing, each instrument of assignment of record title, operating rights, royalty interest or payment out of production shall be accompanied by a nonrefundable filing fee of $25. Any instrument not accompanied by the required $25 filing fee shall not be accepted.

§ 3106.4 Forms.

§ 3106.4-1 Record title and operating rights.

Three originally executed copies of assignments of record title or operating rights shall be filed with the proper BLM office on a form approved by the Director or reproductions thereof. A separate instrument of assignment, in triplicate, shall be filed for each lease out of which an assignment is made. One request for approval shall suffice in those instances where several assignments to an assignee(s) have been submitted at the same time by a qualified applicant(s).

§ 3106.4-2 Royalty interest and production payments.

(a) If any overriding royalty interest or payment out of production is created or reserved under the assignment which is not shown in the instrument of transfer, a statement describing the interest shall accompany the assignment when filed.

(b) A single signed copy of assignments of a payment out of production or overriding royalty interest for each lease shall be filed with the proper BLM office. No official form is required. The assignment shall include the assignee's signed statement as to his/her qualifications under subpart 3102 of this title and the assignee's statement that all overriding royalty interests created are subject to the suspension provision in § 3103.3-3 of this title.

§ 3106.5 Description of lands.

Each instrument of assignment or transfer shall describe the lands involved in the same manner as the lands are described in the lease or in the manner required by § 3111.2 of this title.

§ 3106.6 Bonds.

§ 3106.6-1 Lessee's general lease bond.

Where a general lease or drilling bond is maintained by the lessee in connection with a particular lease, the assignee of a record title interest in such lease shall furnish a proper bond or consent of the surety under the existing bond to become co-principal on such bond if the assignor's bond does not expressly contain such consent.

§ 3106.6-2 Operator's bond.

Where operating rights are assigned and coverage was provided under an operator's bond, the assignee/operator shall furnish an appropriate replacement bond.

§ 3106.6-3 Statewide/nationwide bond.

If the assignee is maintaining a statewide or nationwide bond, no individual lease bond shall be required, but the amount of the bond may be increased to an amount determined by the authorized officer.

§ 3106.7 Approval of assignment.

§ 3106.7-1 Failure to qualify.

No assignment shall be approved if the assignee or any other parties in interest are not qualified to hold the assigned interest, or if the bond, should one be required, is insufficient.

§ 3106.7-2 Continuing responsibility.

Until the assignment is approved, the assignor and surety shall continue to be responsible for the performance of all obligations under the lease. If the assignment is not approved, their obligations to the United States shall continue as though no such assignment had been filed for approval. After approval, the assignee and surety shall be responsible for the performance of all lease obligations notwithstanding any terms in the assignment to the contrary.

§ 3106.7-3 Lease account status.

An assignment of an interest in a producing lease shall not be approved unless the lease account is in good standing.

§ 3106.7-4 Effective date of assignment.

The signature of the authorized officer on the official form shall constitute approval of the assignment, which shall take effect as of the first day of the lease month following the date of filing in the proper BLM office of all documents and statements required by this subpart and an appropriate bond, if one is required.

§ 3106.7-5 Effect of assignment.

An assignment of record title to 100 percent of a portion of the lease segregates the assigned portion and the retained portion into separate leases. Each resulting lease retains the anniversary date and the terms and conditions of the original lease. An assignment of an undivided record title interest or an operating right shall not segregate the assigned and retained portions into separate leases.

§ 3106.8 Other types of transfer.

§ 3106.8-1 Heirs and devisees.

(a) If an offeror, applicant or assignee dies, his/her rights shall be transferred to the heirs, devisees, executor or administrator of the estate, as appropriate, upon the filing of a statement that all parties are qualified to hold a lease in accordance with

subpart 3102 of this title. No filing fee is required.

(b) Any ownership or interest otherwise forbidden by the regulations in this group which may be acquired by descent, will, judgment or decree may be held for not more than 2 years after its acquisition.

§ 3106.8–2 Change of name.

A change of name of a lessee shall be reported to the proper BLM office. No filing fee is required. The notice of name change shall be submitted in writing and be accompanied by a list of the serial numbers of the leases affected by the name change. If bonds have been furnished, change of name may be made by a rider to the original bond or by a replacement bond.

§ 3106.8–3 Corporate merger.

Where a corporate merger affects leases situated in a State where the transfer of property of the dissolving corporation to the surviving corporation is accomplished by operation of law, no assignment of any affected lease interest is required. A notification of the merger shall be furnished with a list, by serial number, of all lease interests affected.

Subpart 3107—Continuation, Extension or Renewal

§ 3107.1 Extension by drilling.

Any lease on which actual drilling operations were commenced prior to the end of its primary term and are being diligently prosecuted at the end of the primary term or any lease which is part of an approved cooperative or unit plan of development or operation upon which such drilling takes place, shall be extended for 2 years subject to the rental being timely paid as required by § 3103.2 of this title, and subject to the provisions of § 3105.2–3 of this title or 30 CFR 226.12, if applicable. Actual drilling operations shall be conducted in the manner in which someone seriously looking for oil or gas could be expected to proceed in that particular area, given existing knowledge or geologic and other pertinent facts.

§ 3107.2 Production.

§ 3107.2–1 Continuation by production.

A lease shall be extended so long as oil or gas is being produced in paying quantities.

§ 3107.2–2 Cessation of production.

A lease which is in its extended term because of production shall not terminate upon cessation of production if, within 60 days thereafter, reworking or drilling operations on the leasehold are commenced and are thereafter conducted with reasonable diligence during the period of nonproduction.

§ 3107.2–3 Nonproduction from leases capable of production.

No lease for lands on which there is a well capable of producing oil or gas in paying quantities shall expire because the lessee fails to produce the same, unless the lessee fails to place the well on a producing status within 60 days after receipt of notice to do so by certified mail from the authorized officer. Such production shall be continued unless and until suspension of production is granted by the authorized officer.

§ 3107.3 Extension for terms of cooperative or unit plan.

§ 3107.3–1 Leases committed to plan.

Any lease or portion of a lease, except as described in § 3107.3–3 of this title, committed to a cooperative or unit plan that contains a general provision for allocation of oil or gas shall continue in effect so long as the lease or portion thereof remains subject to the plan; *Provided,* That there is production of oil or gas in paying quantities under the plan prior to the expiration date of such lease.

§ 3107.3–2 Segregation of leases committed in part.

Any lease committed after July 29, 1954, to any cooperative or unit plan, which covers lands within and lands outside the area covered by the plan, shall be segregated, as of the effective date of unitization, into separate leases; one covering the lands committed to the plan, the other lands not committed to the plan. The segregated lease covering the nonunitized portion of the lands, shall continue in force and effect for the term of the lease but for not less than 2 years from the date of segregation.

§ 3107.3–3 20-year lease or any renewal thereof.

Any lease issued for a term of 20 years, or any renewal thereof, committed to a cooperative or unit plan approved by the Secretary, or any portion of such lease so committed, shall continue in force so long as committed to the plan, beyond the expiration date of its primary term. This provision does not apply to that portion of any such lease which is not included in the cooperative or unit plan unless the lease was so committed prior to August 8, 1946.

§ 3107.4 Extension by elimination.

Any lease eliminated from any approved or prescribed cooperative or unit plan or from any communitization or drilling agreement authorized by the Act and any lease in effect at the termination of such plan or agreement, unless relinquished, shall continue in effect for the original term of the lease or for 2 years after its elimination from the plan or agreement or after the termination of the plan or agreement, whichever is longer, and for so long thereafter as oil or gas is produced in paying quantities.

§ 3107.5 Extension of leases segregated by assignment.

§ 3107.5–1 Extension after discovery on other segregated portions.

Any lease segregated by assignment, including the retained portion, shall continue in effect for the primary term of the original lease, or for 2 years after the date of first discovery of oil or gas in paying quantities upon any other segregated portion of the original lease, whichever is the longer period.

§ 3107.5–2 Undeveloped parts of leases in their extended term.

Undeveloped parts of leases retained or assigned out of leases which are in their extended term shall continue in effect for 2 years after the effective date of assignment, provided the parent lease was issued prior to September 2, 1960.

§ 3107.5–3 Undeveloped parts of producing leases.

Undeveloped parts of leases retained or assigned out of leases which are extended by production, actual or suspended, or the payment of compensatory royalty shall continue in effect for 2 years after the effective date of assignment and for so long thereafter as oil or gas is produced in paying quantities.

§ 3107.6 Extension of reinstated leases.

Where a reinstatement of a terminated lease is granted under § 3108.2 of this title and the authorized officer finds that the reinstatement will not afford the lessee a reasonable opportunity to continue operations under the lease, the authorized officer may extend the term of such lease for a period sufficient to give the lessee such an opportunity. Any extension shall be subject to the following conditions:

(a) No extension shall exceed a period equivalent to the time (1) beginning when the lessee knew or should have known of the termination and (2) ending on the date on which the authorized officer grants such petition.

(b) No extension shall exceed a period equal to the unexpired portion of the lease or any extension thereof remaining at the date of termination.

(c) When the reinstatement occurs after the expiration of the term or extension thereof, the lease may be extended from the date the authorized officer grants the petition.

§ 3107.7 Exchange leases—20-year term.

Any lease which issued for a term of 20 years, or any renewal thereof, or which issued in exchange for a 20-year lease prior to August 8, 1946, may be exchanged for a new lease. Such new lease shall be issued for a primary term of 5 years. An application to exchange a lease for a new lease shall be filed, in triplicate, by the lessee at the proper BLM office, shall show full compliance by the applicant with the terms of the lease and applicable regulations and shall be accompanied by a nonrefundable filing fee of $75.

§ 3107.8 Renewal leases.

§ 3107.8–1 Requirements.

(a) Twenty year leases and renewals thereof may be renewed for successive terms of 10 years. Any application for renewal of a lease shall be made by the lessee and may be joined in or consented to by the operator of record. The application shall show whether all moneys due the United States have been paid and whether operations under the lease have been conducted in accordance with the applicable regulations.

(b) The applicant or his/her operator shall furnish, in triplicate, with the application for renewal, copies of all agreements not theretofore filed providing for overriding royalties or other payments out of production from the lease which will be in existence as of the date of its expiration.

§ 3107.8–2 Application.

An application to renew shall be filed, in triplicate, in the proper BLM office at least 90 days, but not more than 6 months, prior to the expiration of its term and shall be accompanied by a nonrefundable filing fee of $75.

§ 3107.8–3 Approval.

(a) Copies of the renewal lease, in triplicate, dated the first day of the month following the month in which the original lease terminated, shall be forwarded to the lessee for execution. If, upon receipt of the executed lease forms and an appropriate satisfactory lease bond, the lease is executed by the authorized officer, 1 copy of the lease shall be delivered to the lessee.

(b) If overriding royalties and payments out of production in excess of 5 percent of gross production constitute a burden to lease operations that will retard, or impair, or cause premature abandonment, the lease application shall be suspended until overriding royalties and payments out of production are reduced to not more then 5 percent of the value of the production. If the holders of outstanding overriding royalty or other interests payable out of production, the operator and the lessee are unable to enter into a mutually fair and equitable agreement, any of the parties may apply for a hearing at which all interested parties may be heard and written statements presented. Thereupon, a final decision will be rendered by the Department, outlining the conditions acceptable to it as a basis for a fair and reasonable adjustment of the excessive overriding royalties and other payments out of production and an opportunity shall be afforded within a fixed period of time to submit proof that such adjustment has been effected. Upon failure to submit such proof within the time so fixed, the application for renewal shall be denied.

§ 3107.9 Other types.

§ 3107.9–1 Payment of compensatory royalty.

The payment of compensatory royalty shall extend the term of any lease for the period during which such compensatory royalty is paid and for a period of 1 year from the discontinuance of such payments.

§ 3107.9–2 Subsurface storage of oil and gas.

See § 3105.5–4 of this title.

Subpart 3108—Relinquishments, Termination, Cancellation

§ 3108.1 Relinquishments.

A lease or any legal subdivision thereof may be surrendered by the record title holder by filing a written relinquishment, in the proper BLM office. A relinquishment shall take effect on the date it is filed subject to the continued obligation of the lessee and surety to make payments of all accrued rentals and royalties and to place all wells on the lands to be relinquished in condition for suspension or abandonment in accordance with the regulations and the terms of the lease.

§ 3108.2 Termination by operation of law.

§ 3108.2–1 Automatic termination and reinstatement.

(a) Except as provided in paragraph (b) of this section, any lease on which there is no well capable of producing oil or gas in paying quantities, shall automatically terminate by operation of law (30 U.S.C. 188) if the lessee fails to pay the rental at the proper BLM office on or before the anniversary date of such lease. If the proper BLM office is closed on the anniversary date, payment received on the next day the office is open to the public shall be deemed timely filed. A remittance which is postmarked by the U.S. Postal Service, common carrier or its equivalent (not including private postal meters) on or before the lease anniversary date and is received in the proper BLM office no later than 20 days after such anniversary date shall be considered as timely filed.

(b) If the rental payment due under a lease is paid on or before its anniversary date but the amount of the payment is deficient and the deficiency is nominal as defined in this section, or the amount of payment made was determined in accordance with the rental or acreage figure stated in a bill or decision rendered by the authorized officer and such figure is found to be in error resulting in a deficiency, such lease shall not have automatically terminated unless the lessee fails to pay the deficiency within the period prescribed in the Notice of Deficiency provided for in this section. A deficiency shall be considered nominal if it is not more than $100 or more than 5 percent of the total payment due, whichever is less. The authorized officer shall send a Notice of Deficiency to the lessee on a form approved by the Director. The Notice shall be sent by certified mail, return receipt requested, and shall allow the lessee 15 days from the date of receipt or until the due date, whichever is later, to submit the full balance due to the proper BLM office. If the payment required by the Notice is not paid within the time allowed, the lease shall have terminated by operation of law as of its anniversary date.

(c)(1) Except as hereinafter provided, the authorized officer may reinstate a lease which is terminated for failure to pay on or before the anniversary date the full amount of rental due, provided that:

(i) Such rental was paid or tendered within 20 days after the anniversary date; and

(ii) It is shown to the satisfaction of the authorized officer that the failure to timely submit the full amount of rental due was either justified or not due to a lack of reasonable diligence on the part of the lessee; and

(iii) A petition for reinstatement, together with a nonrefundable filing fee of $25 and the required rental, including any back rental which has accrued from the date of the termination of the lease, is filed with the proper BLM office within 15 days after receipt of Notice of Termination of Lease due to late

payment of rental. The Notice of Termination shall be sent only if the rental is actually paid.

(2) The burden of showing that the failure to pay on or before the anniversary date was justified or not due to lack of reasonable diligence shall be on the lessee.

(3) Under no condition shall a terminated lease be reinstated if:

(i) A valid oil and gas lease has been issued prior to the filing of a petition of reinstatement affecting any of the lands covered by that terminated lease; or

(ii) The oil and gas interests of the United States in the lands have been disposed of or otherwise have become unavailable for leasing.

(4) The authorized officer shall not issue a lease for lands covered by a lease which terminated automatically until 60 days after the date of termination.

§ 3108.3 Cancellation.

(a) Whenever the lessee fails to comply with any of the provisions of the law, the regulations issued thereunder or the lease, the lease may be cancelled by the Secretary, if the lands covered by the lease are not known to contain valuable deposits of oil or gas. The lease may be cancelled only after notice to the lessee in accordance with section 31 of the act and only if default continues for the period prescribed in that section after service of notice of failure to comply.

(b) Leases shall be subject to cancellation if improperly issued.

(c) Leases for lands known to contain valuable deposits of oil or gas may be cancelled only by judicial proceedings in the manner provided in sections 27 and 31 of the act.

§ 3108.4 Bona fide purchasers.

A lease or interest therein shall not be cancelled to the extent that such action adversely affects the title or interest of a bona fide purchaser even though such lease or interest, when held by a predecessor in title, may have been subject to cancellation. All purchasers shall be charged with constructive notice are on notice as to all pertinent regulations and all Bureau records pertaining to the lease and the lands covered by the lease. Prompt action shall be taken to dismiss as a party to any proceedings with respect to a violation by a predecessor of any provisions of the act, any person who shows the holding of an interest as a bona fide purchaser without having violated any provisions of the act. No hearing shall be necessary upon such showing unless prima facie evidence is presented that the purchaser is not a bona fide purchaser. If, during any such proceeding, a party thereto files a waiver of his/her rights under the lease to drill or to assign his/her lease interests, or if such rights are suspended by order of the Secretary pending a decision, payments or rentals and the running of time against the term of the lease involved shall be suspended as of the first day of the month following the filing of the waiver of the Secretary's suspension until the first day of the month following the final decision in the proceeding or the revocation of the waiver for suspension.

Subpart 3109—Leasing Under Special Acts

§ 3109.1 Rights-of-way.

§ 3109.1-1 Generally.

The Act of May 21, 1930 (30 U.S.C. 301–306), authorizes either the leasing of oil and gas deposits under railroad and other rights-of-way to the owner of the right-of-way or the entering of a compensatory royalty agreement with adjoining landowners. This authority shall be exercised only with respect to railroad rights-of-way and easements issued pursuant either to the Act of March 3, 1875 (43 U.S.C. 934 et seq.), or pursuant to earlier railroad right-of-way statutes, and with respect to rights-of-way and easements issued pursuant to the Act of March 3, 1891 (43 U.S.C. 946 et seq.). The oil and gas underlying any other right-of-way or easement is included within any oil and gas lease issued pursuant to the Act which covers the lands within the right-of-way, subject to the limitations on use of the surface, if any, set out in the statute under which, or permit by which, the right-of-way or easement was issued, and such oil and gas shall not be leased under the Act of May 21, 1930.

§ 3109.1-2 Application.

No particular form of application for lease of lands in a right-of-way is required. Applications shall be filed in the proper BLM office. Such applications shall be filed by the owner of the right-of-way or by his/her assignee and be accompanied by a nonrefundable filing fee of $75, and if filed by an assignee, by a duly executed assignment of the right to lease. The application shall detail the facts as to the ownership of the right-of-way, and of the assignment if the application if filed by an assignee; the development of oil and gas in adjacent or nearby lands, the location and depth of the wells, the production and the probability of drainage of the deposits in the right-of-way. A description by metes and bounds of the right-of-way is not required but each legal subdivision through which the portion of the right-of-way desired to be leased extends shall be described.

§ 3109.1-3 Notice.

After the Bureau of Land Management has determined that a lease of a right-of-way or any portion thereof is consistent with the public interest, either upon consideration of an application for lease or on its own motion, the authorized officer shall serve notice on the owner or lessee of the oil and gas rights of the adjoining lands. The adjoining land owner or lessee shall be allowed a reasonable time, as provided in the notice, within which to submit a bid for the amount or percent of compensatory royalty, the owner or lessee shall pay for the extraction of the oil and gas underlying the right-of-way through wells on such adjoining lands. The owner of the right-of-way shall be given the same time period to submit a bid for the lease.

§ 3109.1-4 Award of lease or compensatory royalty agreement.

Award of lease to the owner of the right-of-way, or a contract for the payment of compensatory royalty by the owner or lessee of the adjoining lands shall be made to the bidder whose offer is determined by the authorized officer to be to the best advantage of the United States, considering the amount of royalty to be received and the better development under the respective means of production and operation.

§ 3109.1-5 Compensatory royalty agreement or lease.

(a) The lease or compensatory royalty agreement shall be on a form approved by the Director.

(b) The royalty to be charged shall be fixed by the Bureau of Land Mangement in accordance with the provisions of § 3103.3 of this title, but shall not be less than 12½ percent.

(c) The term of the lease shall be for a period of not more than 20 years.

§ 3109.2 National Park Service areas.

(a) Oil and gas leasing in National Park Service areas shall be governed by 43 CFR Group 3100 and all operations conducted on a lease or permit in such areas shall be governed by 30 CFR Parts 221 and 226.

(b) Any lease or permit respecting minerals in National Park Service areas shall be issued or renewed only with the consent of the Regional Director, National Park Service. Such consent shall only be granted upon a determination by the Regional Director that the activity permitted under the lease or permit will not have significant

adverse effect upon the resources or administration of the area pursuant to the authorizing legislation of the area. Any lease or permit issued shall be subject to such conditions as may be prescribed by the Regional Director to protect the surface and significant resources of the area, to preserve their use for public recreation, and to the condition that site specific approval of any activity on the lease will only be given upon concurrence by the Regional Director. All lease applications received for reclamation withdrawn lands shall also be submitted to the Bureau of Reclamation for review.

(c) The areas subject to the regulations in this part are those areas of land and water which are shown on the following maps on file and available for public inspection in the office of the Director of the National Park Service and in the Superintendent's Office of each area. The boundaries of these areas may be revised by the Secretary as authorized in the Acts.

(1) Lake Mead National Recreation Area—The map identified as "boundary map, 8360–80013A, revised December 1979."

(2) Whiskeytown Unit of the Whiskeytown-Shasta-Trinity National Recreation Area—The map identified as "Proposed Whiskeytown-Shasta-Trinity National Recreation Area," numbered BOR–WST 1004, dated July 1963.

(3) Ross Lake and Lake Chelan National Recreation Areas—The map identified as "Proposed Management Units, North Cascades, Washington," numbered NP–CAS–7002, dated October 1967.

(4) Glen Canyon National Recreation Area—the map identified as "boundary map, Glen Canyon National Recreation Area," numbered GLC–91,006, dated August 1972.

(d) The following excepted areas shall not be open to mineral leasing:

(1) *Lake Mead National Recreation Area.* (i) All waters of Lakes Mead and Mohave and all lands within 300 feet of those lakes measured horizontally from the shoreline at maximum surface elevation;

(ii) All lands within the area of supervision of the Bureau of Reclamation around Hoover and Davis Dams and all lands within any developed and/or concentrated public use area or other area of outstanding recreational signficance as designated by the Superintendent on the map (NRA–L.M. 2291A, dated July 1966) of Lake Mead National Recreation Area which is available for inspection in the Office of the Superintendent.

(2) *Whiskeytown Unit of the Whiskeytown-Shasta-Trinity National Recreation Area.* (i) All waters of Whiskeytown Lake and all lands within 1 mile of that lake measured from the shoreline at maximum surface elevation;

(ii) All lands classified as high density recreation, general outdoor recreation, outstanding natural and historic, as shown on the map numbered 611–20,004B, dated April 1979, entitled "Land Classification, Whiskeytown Unit, Whiskeytown-Shasta-Trinity National Recreation Area." This map is available for public inspection in the Office of the Superintendent;

(iii) All lands within section 34 of Township 33 north, Range 7 west, Mt. Diablo Meridian.

(3) *Ross Lake and Lake Chelan National Recreation Areas.* (i) All of Lake Chelan National Recreation Area;

(ii) All lands within ½ mile of Gorge, Diablo and Ross Lakes measured from the shoreline at maximum surface elevation;

(iii) All lands proposed for or designated as wilderness;

(iv) All lands within ½ mile of State Highway 20;

(v) Pyramid Lake Research Natural Area and all lands within ½ mile of its boundaries.

(4) *Glen Canyon National Recreation Area.* Those areas closed to mineral disposition within the natural zone, development zone, cultural zone and portions of the recreation and resource utilization zone as shown on the map numbered 80,022A, dated March 1980, entitled "Mineral Management Plan—Glen Canyon National Recreation Area." This map is available for public inspection in the Office of the Superintendent and the office of the State Directors, Bureau of Land Management, Arizona and Utah.

§ 3109.3 Wilderness lands.

All laws pertaining to mineral leasing and the regulations of this chapter extend to lands subject to the Wilderness Act of 1964 (16 U.S.C. 1131 *et seq.*) until midnight December 31, 1983, unless otherwise provided by law. After that date, the wilderness areas are withdrawn from leasing, subject to valid existing rights, under section 4(d)(3) of the Wilderness Act.

§ 3109.4 Shasta and Trinity Units of the Whiskeytown-Shasta-Trinity National Recreation Area.

Section 6 of the Act of November 8, 1965 (Pub. L. 89–336), authorizes the Secretary to permit the removal of oil and gas from lands within the Shasta and Trinity Units of the Whiskeytown-Shasta-Trinity National Recreation Area in accordance with the act or the Mineral Leasing Act for Acquired Lands. Subject to the determination by the Secretary of Agriculture that removal will not have significant adverse effects on the purposes of the Central Valley project or the administration of the recreation area.

2. Part 3110 is revised to read as follows:

PART 3110—NONCOMPETITIVE LEASES

Subpart 3110—Noncompetitive Leases; General

Sec.
3110.1 Lease terms.
3110.1–1 Duration of lease.
3110.1–2 Dating of lease.
3110.1–3 Lease offer size.
3110.2 Withdrawal of offer or application.
3110.3 Action on offer.

Subpart 3111—Over-the-Counter Offers

Sec.
3111.1 Requirements.

Sec.
3111.1–1 General.
3111.2 Description of lands in offer.
3111.2–1 Public domain.
3111.2–2 Acquired lands.
3111.2–3 Accreted lands.
3111.2–4 Conflicting descriptions.
3111.3 Future interest offers.
3111.3–1 Availability.
3111.3–2 Form of application.
3111.3–3 Effective date of lease.
3111.3–4 Supplemental agreement.
3111.3–5 Approval.

Subpart 3112—Simultaneous Filings

Sec.
3112.0–5 Definitions.
3112.1 Parcels.
3112.1–1 Availability of lands.
3112.1–2 Parcel list.
3112.1–3 Posting of parcel list notice.
3112.2 How to file an application.
3112.2–1 Simultaneous oil and gas lease applications.
3112.2–2 Filing fees.
3112.2–3 Qualifications.
3112.2–4 Filing assistance.
3112.3 Unacceptable and rejected applications.
3112.4 First qualified applicant.
3112.4–1 Selection procedure.
3112.4–2 Reselection process.
3112.5 Adjudication.
3112.5–1 Rejection of an application.
3112.5–2 Rejection of an offer.
3112.5–3 Cancellation of leases.
3112.6 Lease issuance.
3112.6–1 Lease offer and payment of the first year's rental.
3112.6–2 Acceptance of lease offer.
3112.6–3 Restriction on transfer.
3112.7 Availability of unleased simultaneous parcels.

Authority: Mineral Leasing Act of 1920, as amended and supplemented (30 U.S.C. 181 et seq.), the Mineral Leasing Act for Acquired Lands, as amended (30 U.S.C. 351–359), the Alaska National Interest Lands Conservation

Act (16 U.S.C. 3101 et seq.), Federal Land Policy and Management Act of 1976 (43 U.S.C. 1701 et seq.), Omnibus Budget Reconciliation Act of 1981 (Pub. L. 97–35).

Subpart 3110—Noncompetitive Leases, General

§ 3110.1 Lease terms.

§ 3110.1–1 Duration of lease.

All noncompetitive leases shall be for a primary term of 10 years.

§ 3110.1–2 Dating of leases.

All noncompetitive leases shall be considered issued when signed by the authorized officer. Leases shall be effective as of the first day of the month following the date the leases are issued except that where prior written request is made, the authorized officer may make a lease effective the first of the month within which it is issued.

§ 3110.1–3 Lease offer size.

(a) Public domain lease offers shall not be made for less than 640 acres or 1 full section where the lands have been surveyed under the rectangular survey system or are within an approved protracted survey, except where the offer or parcel includes all available lands within a section and there are no contiguous lands available for lease.

(b) A parcel or an offer to lease public domain or acquired lands may not include more than 10,240 acres. The lands in an offer or parcel shall be entirely within an area of 6 miles square or within an area not exceeding 6 surveyed sections in length or width measured in cardinal directions. A parcel or an offer to lease acquired lands may exceed the 6 mile square limit if:

(1) The lands are not surveyed under the rectangular survey system of public land surveys and are not within the area of the public land surveys; and

(2) The tract desired is described by the acquisition tract number assigned by the acquiring agency and less than 50 percent of the tract lies outside the 6 mile square area.

(c) If an offer exceeds the 10,240 acre maximum by not more than 160 acres, the offeror shall be granted 30 days from notice of the excess to withdraw the excess acreage from the offer, failing which, the offer shall be rejected and priority shall be lost.

§ 3110.2 Withdrawal of offer or application.

An offer made under subpart 3111 of this title may be withdrawn in whole or in part by the offeror. Such withdrawal may be made only if the withdrawal is received by the proper BLM office before the lease, and amendment of the lease or a separate lease, whichever covers the lands described in the withdrawal, has been signed on behalf of the United States. If a public domain offer is partially withdrawn, the lands retained in the offer shall comply with § 3110.1–3(a) of this title. An application or offer made under subpart 3112 of this title shall not be withdrawn.

§ 3110.3 Action on offer.

(a) If, prior to the time a noncompetitive lease is issued, all or part of the lands in the offer are found to be within a known geological structure of a producing oil or gas field or a favorable petroleum geological province in Alaska, the offer shall be rejected in whole or in part as to such lands, as appropriate.

(b) No lease shall be issued before final action has been taken on any prior offer to lease the lands or any extension of, or petition for reinstatement of, an existing or former lease on the lands. If a lease is issued before final action, it shall be cancelled, if the prior offeror is qualified to receive a lease or the petitioner is entitled to reinstatement of a former lease.

(c) The authorized officer shall not issue a lease for lands covered by a lease which terminated automatically until 60 days after the date of termination.

Subpart 3111—Over-the-Counter Offers

§ 3111.1 Requirements.

§ 3111.1–1 General.

(a) An over-the-counter noncompetitive offer to lease shall be made on a current form approved by the Director, or on unofficial copies of that form in current use. Copies shall be exact reproductions on 1 page of both sides of the official approved form without additions, omissions or other changes or advertising. The original copy of each offer shall be filled in by typewriter or printed plainly in ink, manually signed in ink and dated by the offeror or the offeror's duly authorized agent or attorney-in-fact, and shall be accompanied by a nonrefundable filing fee of $75 and the first year's rental. The original and 4 copies of each offer to lease shall be filed in the proper BLM office. Where remittances for over-the-counter offers are returned for insufficient funds, the offer shall not obtain priority of filing until the date the remittance is properly made.

(b) Priority of an offer received over-the-counter shall be determined as of the time and date the offer is filed in the proper BLM office. Offers to lease which are received in the same mail or over-the-counter at the same time, or during the period established by an opening order or similar notice shall be considered as having been filed simultaneously. Priority of the offers to the extent of the conflicts between them shall be determined by drawing in accordance with § 1821.2–3 of this title.

(c) No offer may include both public domain and acquired lands.

(d) Compliance with subpart 3102 shall be required.

(e) The United States shall indicate its acceptance of the lease offer, in whole or in part, and the issuance of the lease, by the signature of the authorized officer on the lease form. A signed copy of the lease shall be mailed to the offeror.

(f) Except as otherwise specifically provided in the regulations in this group, an offer which is not filed in accordance with the regulations in this part shall be rejected. An offer filed on a lease form not currently in use shall be acceptable, unless such form has been declared obsolete by the Director prior to the filing, on the condition that the offeror is bound by the terms and conditions of the lease form currently in use.

(g) All offers for leases should name, the United States agency from which consent to the issuance of a lease shall be obtained, or the agency that may have title records covering the ownership for the mineral interest involved, and identify the project, if any, of which the lands covered by the offer are a part.

§ 3111.2 Description of lands in offer.

§ 3111.2–1 Public domain.

(a) If the lands have been surveyed under the public land rectangular system, each offer shall describe the lands by legal subdivision, section, township, range and meridian.

(b) If the lands have not been surveyed under the public land rectangular system, each offer shall describe the lands by metes and bounds, giving courses and distances between the successive angle points on the boundary of the tract, in cardinal directions except where the boundaries of the lands are in irregular form, and connected by courses and distances to an official corner of the public land surveys.

(c) When protracted surveys have been approved and the effective date thereof published in the **Federal Register**, all offers to lease lands shown on such protracted surveys, filed on or after such effective date, shall describe the lands in the same manner as

provided in paragraph (a) of this section for officially surveyed lands.

(d)(1) Where offers are pending for unsurveyed lands which are subsequently surveyed or protracted prior to the lease issuance, the description in the lease shall be conformed to the subdivisions of the approved protracted survey or the public land survey, whichever is appropriate.

(2) The description of lands in an existing lease shall be conformed to a subsequent resurvey or amended protraction survey, whichever is appropriate.

§ 3111.2-2 Acquired lands.

(a) If the lands have been surveyed under the rectangular system of public land surveys, the lands shall be described by legal subdivision, section, township, range and meridian. Where the description cannot be conformed to the public land surveys, any boundaries which do not so conform shall be described by metes and bounds, giving courses and distances between the successive angle points with appropriate ties to the nearest existing official survey corner. If not so surveyed but within the area of the public land surveys, the lands shall be described by metes and bounds, giving courses and distances between the successive angle points on the boundary of the tract, and connected with a reasonably nearby corner of these surveys by courses and distances.

(b) If the lands have not been surveyed under the rectangular system of public land surveys, they shall be described as in the deed or other document by which the United States acquired title to the lands or minerals. If the desired lands constitute less than the entire tract acquired by the United States, it shall be described by courses and distances between successive angle points on its boundary tying by course and distance into the description in the deed or other document by which the United States acquired title to the lands.

(c) In those instances where the acquiring agency has assigned an acquisition number to the tract applied for, a description by such tract number shall be required in addition to the description otherwise required by paragraph (a) and in lieu of the description otherwise required by paragraph (b) of this section.

(d) Each offer submitted under paragraphs (b) and (c) of this section shall be accompanied by 5 copies of a map upon which the desired lands are clearly marked showing their location with respect to the administrative unit or project of which they are a part.

§ 3111.2-3 Accreted lands.

Where an offer includes any accreted lands, the accreted lands shall be described by metes and bounds, giving courses and distances between the successive angle points on the boundary of the tract, and connected by courses and distances to an angle point on the perimeter of the tract to which the accretions appertain.

§ 3111.2-4 Conflicting descriptions.

If there is any variation in the land description among the required copies of the official forms, the copy showing the date and time of receipt in the proper BLM office shall control.

§ 3111.3 Future interest offers.

§ 3111.3-1 Availability.

(a) A noncompetitive lease for future interest in lands not known to contain mineral deposits may be issued if in the public interest.

(b) A noncompetitive future interest lease shall be issued only to an offeror who owns all or substantially all of the present operating rights in the lands, either as an operator holding such rights, or as mineral fee owner, as lessee or another party in interest.

(c) An offer made on the current form approved by the Director for a future interest lease may be filed less than 1 year prior to the date of vesting in the United States of the present interest in the minerals. Upon the vesting in the United States of the present possessory interest in the minerals, all such offers for future interest leases pending at the time shall be considered for lease, retaining priority for consideration, as of the original date of filing; and thereafter only offers for present interest shall be considered; or at the Director's discretion, such offers may be included as a simultaneous filing for such lands under subpart 3112 of this title.

§ 3111.3-2 Form of application.

There is no required form for an offer to lease a future interest except as provided in § 3111.3-1 of this title. The offer shall, to the extent applicable, conform to and include the terms of the noncompetitive lease forms currently in use and shall also be accompanied by a certified abstract of title containing record evidence of the creation of, and offeror's right to, the claimed mineral interest. If the offeror aquired the operating rights under a lease or contract, the offer shall also be accompanied by a copy of such lease or contract. In lieu of an abstract, a certification of title may be furnished provided that the State in which the lands are located authorizes abstracting and title companies to certify as to title to lands. If the application is submitted by any other party in interest, the applicant shall set forth on the lease application or on a separate accompanying sheet, the names of all other parties who own or hold any interest in the present operating rights and/or interest in the application, offer or lease, if issued as mineral fee owner, as lessee or operator holding such rights. A statement signed by both the applicant and the other parties in interest, setting forth both the nature of any oral understanding between them, and a copy of any written agreement between them shall be filed with the proper BLM office prior to issuance of the lease offer. Such statement and/or agreement shall include or be accompanied by statement signed by all parties in interest setting forth the nature and extent of their respective interest and certifying that they qualify as to age and citizenship requirements and are in compliance with the acreage limitations and will furnish further documentation upon request. A future interest offer may include tracts in which the United States owns a fractional present interest as well as the future interest for which a lease is sought.

§ 3111.3-3 Effective date of lease.

Future interest leases shall become effective on the date when the United States becomes vested with the mineral rights as stated in the lease. Where the effective dates of the vesting of the United States' title to the minerals are different for different tracts, separate leases covering each of the different tracts shall be issued.

§ 3111.3-4 Supplemental agreement.

(a) As part of the consideration for the issuance of a future interest lease and as supplemental thereto, the offeror shall execute, in triplicate, an agreement for approval by the Director. The agreement shall provide for the payment of annual rental in advance at the rate of $1. The agreement shall be effective as of the date the lease issues and shall govern the relationship of the offeror and the United States between its effective date and the date when the lease becomes effective. Where the United States owns both a fractional interest and fractional future interest in the minerals in the same tract, the supplemental agreement shall cover only the fractional future interest in that tract. The lease, when issued, shall cover both the present and future interests in the lands and shall be effective for the present interest held by

provided in paragraph (a) of this section for officially surveyed lands.

(d)(1) Where offers are pending for unsurveyed lands which are subsequently surveyed or protracted prior to the lease issuance, the description in the lease shall be conformed to the subdivision of the approved protracted survey or the traffic land survey, whichever is appropriate.

(2) The description of lands in an existing lease shall be conformed to a subsequent recovery or protracted protraction survey, whichever is appropriate.

§ 3111.2-2 Acquired lands.

(a) If the lands have been surveyed under the rectangular system of public land surveys, the lands shall be described by legal subdivision, section, township, range and meridian. Where the description cannot be conformed to the public land surveys, any boundaries which do not so conform shall be described by metes and bounds, giving courses and distances between the successive angle points with appropriate ties to the nearest existing official survey corner. If not so surveyed but within the area of the public land surveys, the lands shall be described by metes and bounds, giving courses and distances between the successive angle points on the boundary of the tract, and connected with a reasonably nearby corner of these surveys by courses and distances.

(b) If the lands have not been surveyed under the rectangular system of public land surveys, they shall be described as in the deed or other document by which the United States acquired title in the lands or minerals. If the desired lands constitute less than the entire tract acquired by the United States, it shall be described by courses and distances between successive angle points on its boundary lying by course and distance into the description in the deed or other document by which the United States acquired title in the lands.

(c) In those instances where the acquiring agency has assigned an acquisition number to the tract applied for, a description by such tract number shall be required in addition to the description otherwise required by paragraph (a) and in lieu of the description otherwise required by paragraph (b) of this section.

(d) Each offer submitted under paragraphs (a) and (b) of this section shall be accompanied by 3 copies of a map or sketch which the desired lands are clearly marked showing their location with respect to the administrative and as proper of which they are a part.

§ 3111.2-3 Accepted lands.

Where an offer includes any accepted lands, the accepted lands shall be described by metes and bounds, giving courses and distances between the successive angle points on the boundary of the tract, and connected by courses and distances to an angle point on the perimeter of the tract to which the accepted application.

§ 3111.2-4 Conflicting descriptions.

If there is any variation in the land description among the required copies of the official forms, the copy showing the date and time of receipt in the proper BLM office shall control.

§ 3111.2 Future interest offers.

§ 3111.2-1 Availability.

(a) A combination of lease for future interest in lands and lease-to-contract mineral deposits may be issued if in the public interest.

(b) A combination of future interest lease shall be issued only to an offeror who owns all or substantially all of the present operating rights in the lands, either as an operator holding such rights or as mineral fee owner, as lessee or sublessee in interest.

(c) An offer made on the current form approved by the Director for a future interest lease may be filed less than 7 year prior to the date of vesting in the United States of the present interest in the minerals. Upon the vesting in the United States of the present possessory interest in the minerals, all such offers for future interest leases pending at the time shall be considered for lease, retaining priority for consideration, as of the original date of filing, and thereafter only offers for present interest shall be considered, or at the Director's discretion, such offers may be included as a simultaneous filing for such lands under subpart 3112 of this title.

§ 3111.2-2 Form of application.

There is no required form for an offer to lease a future interest except as provided in § 3111.2-1 of this title. The offer shall, to the extent applicable, conform to and include the terms of the noncompetitive lease forms currently in use and shall also be accompanied by a certified abstract of the containing record evidence of the creation of, and offeror's right to, the claimed mineral interest. If the offeror-applied the operating rights under a lease or contract, the offer shall also be accompanied by a copy of such lease or contract, in lieu of an abstract, a certification of title may be furnished provided that the lease in which the lands are located authorizes abstracting and title companies to certify as to title to lands. If the application is submitted by any other party in interest, the applicant shall set forth on the lease applications or on a separate accompanying sheet, the names of all other parties who own or hold any interest in the present operating rights and/or interest in the application, offer or lease. If issued as agent of the owner, as lessee or operator holding such rights, a statement signed by both the applicant and the other parties in interest, setting forth both the nature of any oral understanding between them and a copy of any written agreement between them shall be filed with the proper BLM office prior to issuance of the lease offer. Such statement and/or agreement shall include or be accompanied by statement signed by all parties in interest setting forth the nature and extent of their respective interest and certifying that they qualify as to age and citizenship requirements and are in compliance with the acreage limitations and will furnish further documentation upon request. A future interest offeror includes tracts in which the United States owns a fractional present interest as well as the future interest for which a lease is sought.

§ 3111.2-3 Effective date of lease.

Future interest leases shall become effective as the date when the United States becomes vested with the mineral rights as stated in the lease. Where the effective date of the vesting of the United States' title to the minerals are different for different lands, separate leases covering each of the different tracts shall be issued.

§ 3111.2-4 Supplemental agreement.

(a) As part of the consideration for the issuance of a future interest lease and as supplemental thereto, the offeror shall execute, in triplicate, an agreement for approval by the Director. The agreement shall provide for the payment of annual rental in advance at the rate of $1. The agreement shall be effective as of the date the lease issues and shall govern the relationship of the offeror and the United States between the effective date and the date when the lease becomes effective. Where the United States owns both a fractional interest and fractional future interest in the minerals in the same tract, the supplemental agreement shall cover only the fractional future interest in that tract. The lease, when issued, shall cover both the present and future interests in the lands and shall be effective for the present interest held by

the United States as of the date on which the lease issues.

(b) The agreement shall provide that the agreement rental shall be $2 per acre per year for any lands determined to be within a known geologic structure, or a favorable petroleum geological province in Alaska.

(c) The agreement shall provide that if the lands covered by the lease become producing, the lessee shall pay minimum royalty under the agreement of not less than $2 per acre per year, at the particular rate that is applicable as described below. When the interval from the date that production is obtained to the date when title shall vest in the United States is:

Not more than 4 years 10 percent
From 4 years to not more than 8 years 8 percent
More than 8 years 6 percent

(d) Upon vesting of the rights to the lands in the United States, the royalty rate which shall attach to the lease shall be 12½ percent for those lands which are not within a known geological structure or a producing oil or gas field or a favorable petroleum geological province in Alaska, and as set forth in § 3103.3–1(a)(2) of this title, for those lands which are within such areas.

§ 3111.3–5 Approval.

Leases for future interest shall be issued on a form approved by the Director. The lease and supplemental agreement shall be sent to the offeror for signature and returned to the proper BLM office for signature by the authorized officer.

Subpart 3112—Simultaneous Filing

§ 3112.0–5 Definitions.

As used in this subpart, the term "person or entity in the business of providing assistance to the participants in the Federal simultaneous oil and gas leasing program" means those enterprises, commonly known as filing services, which sign, formulate, prepare or otherwise complete or file applications for oil and gas leases for consideration. All other services such as general secretarial assistance or general geologic advice whether or not it is specifically related to Federal lease parcels or leasing, are excluded from this definition.

§ 3112.1 Parcels.

§ 3112.1–1 Availability of lands.

(a) Except as provided in paragraph (b) of this section and § 3120.1 of this title, all lands which are not within a known geological structure of a producing oil or gas field, or a favorable petroleum geological province in Alaska, and were covered by Federal oil and gas leases which have been cancelled, terminated, relinquished or expired are subject to leasing only under this subpart. The Director may designate other lands which are not within a known geological structure of a producing oil or gas field to be leased in accordance with this subpart.

(b) Lands in Alaska which are not included in a pending noncompetitive lease offer or simultaneous oil or gas application under this subpart and which are available for posting for simultaneous oil and gas leasing on the effective date of this rulemaking shall be subject to leasing under the provisions of subpart 3111 of this title when such lands become available for leasing.

§ 3112.1–2 Parcel list.

The lands available for leasing shall be described in leasing units identified by parcel numbers. The lands shall also be described by subdivision, section, township, range, meridian and acreage if the lands are surveyed or officially protracted, or if unsurveyed, by metes and bounds, or by acquisition tract number. The list shall include a statement as to, and a copy of, stipulations applicable to each parcel. The list shall also include a notice stating that the lands listed are subject to the filing of lease applications from the time of posting until the close of business on the 15th working day of that month.

§ 3112.1–3 Posting of parcel list notice.

At the start of business on the first working day of January, March, May, July, September and November, a list of the lands for which applications shall be received shall be posted in the proper BLM office. Copies of the posted notice may be purchased from the proper BLM office.

§ 3112.2 How to file an application.

§ 3112.2–1 Simultaneous oil and gas lease applications.

(a) An application to lease under this subpart consists of a simultaneous oil and gas lease application on the form approved by the Director, completed, signed and filed pursuant to the instructions in the application form and to the regulations in this subpart. The first applicant for a lease, as determined under the regulations in this subpart, who is qualified to hold a lease under the Act and the regulations in this title shall have priority of opportunity to complete an offer to lease as described in § 3112.6–1 of this title.

(b) The application shall include the applicant's name and personal or business address as well as the name(s) of all parties in interests to the lease application. All communications relating to leasing shall be sent to that address and it shall constitute the applicant's address of record for the purposes provided in § 3112.6–1 of this title. The address of any other person or entity which is in the business of providing assistance to those participating in the simultaneous oil and gas leasing system shall not be used.

(c) The application shall be signed and dated at the time of signing. If signed by anyone other than the applicant, the application shall show the relationship of the signatory to the applicant. The date shall reflect that the application was signed within the filing period.

(d) The parcel applied for shall be identified by the proper parcel number, including State prefix, as shown on the posted notice.

(e) Applicants shall enter their social security number on the lease application. Corporations and other entities shall use their Internal Revenue Service number or taxpayer number. If an applicant has no social security number or does not wish to disclose such a number, the Bureau shall, upon application, assign an applicant number which shall be used for all future filings. Applicants shall use the same number for all filings.

(f) No person or entity shall hold, own or control an interest in more than 1 application for a particular parcel.

(g) A separate, properly completed, dated and signed lease application for lands posted in each State office which posts a list of available parcels shall be filed within the filing period in the Wyoming State Office, Bureau of Land Management, Cheyenne, Wyoming, at the address shown on the posted list. An application shall be unacceptable if it has not been completed: (1) In accordance with the instructions on the application form in a manner that permits automated processing; and (2) in accordance with the other requirement of subpart 3112 of this title.

§ 3112.2–2 Filing fees.

Each filing shall be accompanied by a nonrefundable filing fee of $75 for each parcel. Failure to submit sufficient fees to cover all filings in a group shall cause the entire group of applications submitted with that remittance to be rejected. An uncollectible remittance covering the filing fee(s) shall result in disqualifying all of the applicants from all of the parcels covered by the applications for which the remittance is uncollectable. Any uncollectable

remittance shall constitute a debt due to the United States which shall be paid before the applicant shall be permitted to participate in any future selection.

§ 3112.2-3 Qualifications.

Compliance with subpart 3102 of this title is required. The applicant shall set forth on the lease application, or on a separate accompanying sheet, the names of all other parties who hold an interest (as defined in § 3000.0–5(k) of this title) in the application, or the lease, if issued. Submission of a qualifications file number alone shall not meet this requirement, except for offers filed under § 3112.6–1(b)(iii) of this title.

§ 3112.2-4 Filing assistance.

Any applicant receiving the assistance of any person or entity which is in the business of providing assistance to participants in the Federal simultaneous oil and gas leasing program shall indicate on the lease application the name of the party or filing service that provided assistance.

§ 3112.3 Unacceptable and rejected applications.

(a) Any Part B application form which, in the opinion of the authorized officer:

(1) Is not timely filed in the Wyoming State Office; or

(2) Is received in an incomplete state or prepared in an improper manner; or

(3) Is received in a condition that prevents its automated processing; or

(4) Is received with an insufficient fee: shall be returned to the remitter as unacceptable.

(b) For each Part B application form returned as unacceptable, of the fees remitted, a $75 processing fee shall be retained and the balance of fees, if any, shall be returned to the remitter.

(c) A Part B application form received without any fee or accompanied by an unacceptable remittance shall be considered unacceptable and shall not be returned.

(d) The application fee for a parcel removed from the parcel list by the Bureau shall be returned to the remitter.

(e) An application which is accepted for selection but which does not fully comply with subpart 3112 of this title shall, if selected for priority, be rejected and the filing fee retained.

(f) Failure to reject or to identify a filing as unacceptable prior to selection shall not prevent rejection after selection for the reasons listed in this section or for any reason set forth in §§ 3112.5–1 through 3112.5–3 of this title.

(g) Rejection of an application or the return of an unacceptable application shall be considered a final Departmental action. Any appeal filed as a result of an action under this section shall not delay the issuance of a lease under § 3112.6–1 of this title. The lessee, or successful applicant if the lease has not yet been issued, shall be notified by the Bureau that an appeal or protest has been filed.

(h) In order to appeal a decision of the authorized officer not to accept an application under § 3112.3 of this title, the applicant shall resubmit the returned application, the filing fee and a notice of appeal. The filing fee shall be retained regardless of the outcome of the appeal.

§ 3112.4 First qualified applicant.

§ 3112.4-1 Selection procedure.

(a) One application shall be randomly selected for each numbered parcel. If the application selected is unacceptable or rejected under § 3112.3 of this title, a reselection from the remaining applications shall take place.

(b) The results of the selection process shall be posted in the proper BLM office.

(c) All unsuccessful applicants shall be notified in writing or by return of their applications.

(d) Successful applicants shall be notified in accordance with § 3112.6–1 of this title.

§ 3112.4-2 Reselection process.

If, before lease issuance, it is found that a properly filed application was omitted from the selection process, a new selection shall be held. An omitted application may not be withdrawn by the applicant. The new selection shall consist of the omitted application(s) and the number of blank applications equal to the number of applications which were included in the first selection. The new selection shall be conducted in the same manner as the original selection. If the omitted application is not selected, the result of the original selection shall stand. However, if an omitted application is selected, it shall displace the application selected in the original selection. If an omitted application is discovered after lease issuance, the application shall be returned to the applicant along with the filing fee.

§ 3112.5 Adjudication.

§ 3112.5-1 Rejection of an application.

(a) Any application determined by adjudication as not meeting the requirements of subpart 3112 of this title shall be rejected.

(b) Any agreement, scheme, plan or arrangement entered into prior to selection, which gives any party or parties more than a single opportunity of successfully obtaining a lease or interest therein is prohibited. Any application made in accordance with such agreement, scheme, plan or arrangement shall be rejected: Specifically:

(1) Any agreement, scheme, plan or arrangement which obligates the applicant to transfer any interest in the lease, if issued, to a third party; or which gives the third party a right of first refusal for the lease, if issued; or which obligates the applicant to use the services of the third party when assigning or transferring any interest in the lease, if issued, is prohibited if such agreement, scheme, plan or arrangement exists between the third party and 2 or more applicants for the same parcel or if the third party files for the same parcel as the applicant;

(2) Any agreement, scheme, plan or arrangement between any person or entity in the business of providing assistance to participants in the Federal simultaneous oil and gas leasing program and any potential assignee whereby such person or entity will seek to induce an assignment of any lease is prohibited;

(3) Filings by members of an association, including a partnership, or officers of a corporation, under any agreement, scheme, plan or arrangement whereby the association or corporation has an interest in more than a single filing for a single parcel are prohibited; or

(4) Separate filings by a trustee or guardian in its own behalf and on behalf of 1 or more beneficiaries on the same parcel or, separate filings by a trustee or guardian on behalf of 2 or more beneficiaries on the same parcel or, separate filing by the grantor or person with the power of revocation of a revocable trust and the trust are prohibited.

(c) The application of the first qualified applicant shall be rejected if an offer is not filed in accordance with § 3112.6–1 of this title.

(d) The authorized officer shall reject all filings which are made in accordance with any illegal agreement, scheme, plan or arrangement and shall take other appropriate actions including investigations for prosecution under 18 U.S.C. 1001.

§ 3112.5-2 Rejection of an offer.

(a) An offer shall be rejected if the application upon which it is based should have been properly rejected under §§ 3112.3 and 3112.5–1 of this title.

(b) If, prior to the time a lease is issued, all or part of the lands in the offer are determined to be within a known geological structure of a producing oil or gas field, the offer shall be rejected in whole or in part as may be appropriate and the lease, if issued,

shall include only those lands not within the known geological structure of a producing oil or gas field.

§ 3112.5-3 Cancellation of leases.

In the event a lease has been issued on the basis of an application or offer which properly should have been rejected or, if any interest in any lease is owned or controlled directly or indirectly in violation of any of the provisions of the act or regulations in this title, action shall be taken to cancel the interest or lease unless the rights of a bona fide purchaser, as provided in § 3108.4 of this title, intervene. The United States may take action to cancel regardless of whether information showing the application or offer was rejectable is obtained or was available before or after the lease was issued.

§ 3112.6 Lease issuance.

§ 3112.6-1 Lease offer and payment of the first year's rental.

(a) The lease agreement, consisting of a lease form approved by the Director, and stipulations included on the posted list or later determined to be necessary, shall be forwarded to the selected applicant, if qualified, for signing, together with a request for payment of the first year's rental. Only the personal handwritten signature, in ink, of the prospective lessee, or his/her attorney-in-fact as described in paragraph (b) of this section, shall be accepted. The first year's rental shall be paid only by the applicant personally or his/her attorney-in-fact as described in paragraph (b) of this section. The signed lease agreement and rental payment shall be filed in the proper BLM office within 30 days from the date of receipt of the notice, and shall constitute the applicant's offer to lease.

(b)(1) An attorney-in-fact may sign the lease offer and pay the first year's rental only if:

(i) The power of attorney prohibits the attorney-in-fact from filing offers on behalf of any other participant;

(ii) The power of attorney specifically authorizes the attorney-in-fact to execute on behalf of the participant all offers, statements of interest and of holding and other statements required by the act or the regulations; and

(iii) The power of attorney binds the participant to representations made on his/her behalf by the attorney-in-fact under the power of attorney and waives any and all defenses which may be available to the participant to contest, negate or disaffirm the actions of the attorney-in-fact under such power-of-attorney. (2) An attorney-in-fact signing a lease offer on behalf of the prospective lessee shall file, together with the offer, a copy of his/her power of attorney, or where such power-of-attorney has previously been filed in a proper BLM office, a reference to the serial number of the record in which it has been filed, together with a statement that it is still valid, over the personal handwritten signature, in ink, of the prospective lessee. Evidence of the applicant's physical handicap which precludes an ability to sign may be submitted in lieu of the applicant's signature on the power of attorney.

§ 3112.6-2 Acceptance of lease offer.

The signature of the authorized officer on the lease shall constitute the acceptance of the lease offer and the issuance of the lease by the United States.

§ 3112.6-3 Restriction on transfer.

For restrictions on transfers, see § 3106.1(b) of this title.

§ 3112.7 Availability of unleased simultaneous parcels.

Lands shall be available for leasing under subpart 3111 of this title where, during the filing period under this subpart, no applications are received for any parcel, provided the lands are not determined to be within a known geological structure of a producing oil or gas field. Such lands shall become available for leasing under subpart 3111 of this title on the first day of the month following the posting of the results of the selection in the appropriate State office of the Bureau. Where 1 or more applications are received for a particular parcel and no lease issues as a result of such filing, the lands shall be subject to leasing only in accordance with this subpart.

Part 3120 is revised to read as follows:

PART 3120—COMPETITIVE LEASES

Subpart 3120—Competitive Leases

Sec.

3120.1 General.
3120.2 Lease terms.
3120.2-1 Duration of lease.
3120.2-2 Dating of lease.
3120.2-3 Lease size.
3120.2-4 Qualification.
3120.3 Identification of tract.
3120.4 Notice of lease sale.
3120.4-1 Contents of notice.
3120.4-2 Detailed statement.
3120.4-3 Publication of the notice.
3120.5 Award of lease.
3120.6 Rejection of bid.
3120.7 Consideration of next highest bid.
3120.8 Future or fractional interest.
3120.8-1 Applications.
3120.8-2 Supplemental agreement.
3120.8-3 Compensatory royalty agreements.

Authority: Mineral Leasing Act of 1920, as amended and supplemented (30 U.S.C. 181 et seq.), the Mineral Leasing Act for Acquired Lands (30 U.S.C. 351–359), the Alaska National Interest Lands Conservation Act (16 U.S.C. 3101 et seq.), Federal Land Policy and Management Act of 1976 (43 U.S.C. 1701 et seq.), Federal Property and Administrative Services Act of 1949 (40 U.S.C. 760 et seq.), the Act of May 21, 1930 (30 U.S.C. 301–306), and the Attorney General's Opinion of April 2, 1941 (40 Op. Atty. Gen. 41).

Subpart 3120—Competitive Leases

§ 3120.1 General.

Lands which shall be leased by competitive bidding under this subpart include:

(a) Lands within any known geological structure of a producing oil or gas field, as determined by the Bureau.

(b) Lands for which authority to lease has been delegated from the General Services Administration.

(c) Lands in Alaska within a favorable petroleum geological province, as determined by the Bureau.

(d) If, in proceeding to cancel a lease, interest in a lease, option to acquire a lease or an interest therein, acquired in violation of any of the provisions of the Act, an underlying lease, interest or option in the lease is cancelled or forfeited to the United States and there are valid interests therein which are not subject to cancellation, forfeiture or compulsory disposition, such underlying lease, interest or option shall be sold to the highest responsible, qualified bidder by competitive bidding in a manner similar to that provided in the offering of leases by competitive bidding subject to all outstanding valid interests therein and valid options pertaining thereto. However, if less than the whole interest in the lease, interest or option is cancelled or forfeited, such partial interest shall likewise be sold by competitive bidding. If no satisfactory offer is obtained as a result of the competitive offering of such whole or partial interests, such interests may be sold by such other methods as the authorized officer deems appropriate, but on terms no less favorable to the United States than those of the best competitive bid received. Interest in outstanding lease(s) so sold shall be subject to the terms and conditions of the existing lease(s).

(e) Lands which are otherwise unavailable for leasing but which are subject to drainage (protective leasing).

§ 3120.2 Lease terms.

§ 3120.2-1 Duration of lease.

Competitive leases shall have a primary term of 5 years.

§ 3120.2-2 Dating of lease.

All competitive leases shall be effective as of the first day of the month following the date the leases are signed on behalf of the United States except where prior written request is made, a lease may be made effective on the first of the month within which it is signed.

§ 3120.2-3 Lease size.

(a) Lands outside of Alaska which are within a known geological structure of a producing oil or gas field shall be divided into leasing blocks or tracts in units of not more than 640 acres each, which shall be as nearly compact in form as possible.

(b) Lands in Alaska which are within a favorable petroleum geological province shall be divided into leasing blocks of not more than 2,560 acres, which shall be as compact in form as possible.

(c) If 2 or more blocks are awarded to any bidder, the blocks where the total combined acreage does not exceed the maximum allowable lease size may be included in a single lease if circumstances warrant.

(d) Leases for lands in which the United States owns a future interest shall be subject to the same acreage limitations as set forth in paragraphs (a) and (b) of this section.

(e) Other competitive lease parcels shall be established in reasonable size by the authorized officer.

§ 3120.2-4 Qualifications.

(a) Each bid shall be accompanied by a statement over the signature of the bidder or by anyone authorized to sign on behalf of the bidder certifying compliance with subpart 3102 of this title.

(b) The successful bidder at a sale, by public auction shall, on the day of the sale, deposit with the authorized officer, one-fifth of the amount bid. If the sale is by sealed bid, each bidder shall submit with the bid, one-fifth of the amount bid.

§ 3120.3 Identification of tract.

A request or nomination of a tract(s) for competitive sale shall be submitted in writing to the proper BLM office. The Bureau may also on its own motion post lands for competitive bidding.

§ 3120.4 Notice of lease sale.

§ 3120.4-1 Contents of notice.

The notice of lease sale shall state the time, date and place of the sale including a general description of the lands offered for sale, and information on where the detailed statement of the precise description and terms and conditions of the lease(s), including rental and royalty rates, as well as where bid forms may be obtained and the form in which the bids shall be submitted. Remittances for competitive bids shall be submitted in the form specified in the sale notice.

§ 3120.4-2 Detailed statement.

The detailed statement shall contain information on when and where to submit bids, bidding requirements, payments required, lease terms and stipulations, the description of the leasing units being offered and any other information that may be helpful to the prospective bidder.

§ 3120.4-3 Publication of the notice.

The notice of lease sale shall be published once a week for 3 consecutive weeks in a newspaper of general circulation in the area in which the lands are situated or in such other publication as the authorized officer may determine. The successful bidder shall, prior to lease issuance, pay his/her proportionate share of the total cost of publication of that notice.

§ 3120.5 Award of lease.

(a) All bids shall be opened at the time and date specified in the notice of lease sale, but no bids shall be accepted or rejected at that time. Bids received after the time specified in the notice of sale shall not be considered. Withdrawal of a bid prior to such time shall be permitted. The right to reject any and all bids is reserved.

(b) The lease shall be awarded to the qualified bidder submitting the highest acceptable bid. Copies of the lease on a form approved by the Director shall be sent to the successful bidder who shall within 30 days of receipt of notice, sign and return the lease forms with payment of the balance of the bonus bid, the first year's rental and the publication costs.

§ 3120.6 Rejection of bid.

If the high bid is rejected for failure of the successful bidder to execute the lease forms and pay the balance of the bonus bid, or otherwise to comply with the regulations of this subpart, the one-fifth bonus accompanying the bid shall be forfeited.

§ 3120.7 Consideration of next highest bid.

The Department reserves the right to offer the lease to the next highest bidder if the highest bid is rejected. In no event shall an offer be made to the next highest bidder if the difference between his/her bid and that of the successful bidder is greater than one-fifth of the rejected bid or if the next highest bid is not otherwise acceptable.

§ 3120.8 Future or fractional interest.

§ 3120.8-1 Application.

Applications and requests to have leases offered competitively for future or fractional interests in lands shall, to the extent possible, conform to and include the information requested in §§ 3111.3-2, 3111.2(a) and this subpart. The competitive lease sale for such interests shall be conducted in the same manner as provided under this subpart.

§ 3120.8-2 Supplemental agreement.

(a) The high bidder for a competitive future or fractional interest shall be required to execute a supplemental agreement as provided under § 3111.3-4 of this title except that the annual rental or minimum royalty under the agreement shall be $2 per acre.

(b) The agreement shall provide that if the lands covered by the lease become producing, the lessee shall pay under the agreement a minimum royalty of $2 per acre or fraction thereof per year or the royalty rate specified below, whichever is greater. When the interval from the date that production is obtained to the date when title shall vest in the United States is:

Not more than 4 years	10 percent
From 4 years but less than 8 years	8 percent
More than 8 years	6 percent

(c) Upon the vesting of the rights to the lands in the United States, the royalty shall be as described in § 3103.3-1 of this title.

§ 3120.8-3 Compensatory royalty agreements.

The terms and conditions of compensatory royalty agreements involving acquired lands in which the United States owns a future or fractional interest shall be established on an individual case basis. Such agreements may be considered in lieu of leasing where the interest of the United States in the oil and gas deposit includes both

a present and a future fractional interest in the same tract containing a producing well.

PART 3140—COMBINED HYDROCARBON LEASING

§3140.1–4 [Amended]

4. Section 3140.1–4(a) is amended by removing the phrase "§§ 3101.1–5 and 3101.2–4" and replacing it with the phrase "§ 3101.2".

5. Section 3140.1–4(c) is amended by removing the phrase "§ 3103.3–7" and replacing it with the phrase "§ 3103.4–1".

§3140.7 [Amended]

6. Section 3140.7 is amended by removing the phrase "§ 3101.4–5" and replacing it with the phrase "§ 3103.4–1" and by removing the phrase "§ 3109.5(e)" and replacing it with the phrase "§ 3109.2(b)".

PART 3150 [REMOVED]

7. Part 3150 is removed in its entirety.

[FR Doc. 83–19906 Filed 7–21–83; 8:45 am]
BILLING CODE 4310–84–M

Federal Register

Friday
July 22, 1983

Part V

Department of Labor

Employment and Training Administration

Labor Certification Process for the Temporary Employment of Aliens in Agriculture; Adverse Effect Wage Rate Methodology; Proposed Rule

Friday
July 22, 1983

Part V

Department of Labor

Employment and Training Administration

Labor Certification Process for the Temporary Employment of Aliens in Agriculture; Adverse Effect Wage Rate Methodology; Proposed Rule

DEPARTMENT OF LABOR

Employment and Training Administration

20 CFR Part 655

Labor Certification Process for the Temporary Employment on Aliens in Agriculture; Adverse Effect Wage Rate Methodology

AGENCY: Employment and Training Administration, Labor.

ACTION: Proposed rule.

SUMMARY: Pursuant to a recent Order of the United States District Court for the District of Columbia, the Employment and Training Administration (ETA) of the Department of Labor (DOL) is proposing to amend its regulations for the certification of nonimmigrant aliens for temporary employment in agriculture and logging in the United States. The proposed rule would amend the regulations to establish a methodology for setting 1983 agricultural adverse effect wage rates (AEWRs) that is, the minimum wage rates which DOL has determined must be offered and paid by the employers proposing to employ nonimmigrant alien agricultural workers temporarily in the United States. The proposed rule also would revise the regulation dealing with adjustments to agricultural piece rates.

DATE: Written comments on the proposed rule must be received by August 5, 1983. The fall harvest is impending, and there is a need to avoid as much as possible retroactive application of wage rates. A longer comment period, therefore, cannot be set.

ADDRESS: Send written comments to: Mr. Richard C. Gilliland, Director, United States Employment Service, Employment and Training Administration, Room 8000—Patrick Henry Building, 601 D Street, NW., Washington, D.C. 20213.

FOR FURTHER INFORMATION CONTACT: Mr. Charles I. Carter. Telephone: 202–376–6292.

SUPPLEMENTARY INFORMATION:

Introduction

Pursuant to an Order of the United States District Court for the District of Columbia, the Employment and Training Administration (ETA) of the Department of Labor (DOL) is proposing to amend its regulations for the certification of nonimmigrant aliens for temporary employment in agriculture and logging in the United States. The Order in *NAACP* v. *Donovan,* Civil Action No. 82–2315 (D.D.C. June 28, 1983), required DOL to establish a methodology for setting hourly agricultural adverse effect wage rates (AEWRs) for the 1983 harvest season, and to publish the 1983 AEWRs no later than July 29, 1983.

DOL also is proposing to revise the regulation to reinstitute its earlier interpretation dealing with the approriate adjustment of agricultural piece rates. The court, in its two Orders in *NAACP* v. *Donovan,* found that DOL's interpretation of DOL's own existing regulation on this issue was incorrect. *NAACP* v. *Donovan, supra,* and 558 F. Supp. 218 (D.D.C. 1982). The proposed rule would revise the regulation to reinstate and to reflect accurately the agency's original intent in promulgating it.

Temporary Alien Labor Certification Process and Adverse Effect Wage Rates

1. Background

Whether to grant or deny an employer's petition to import a nonimmigrant alien to the United States for the purpose of temporary employment is solely the decision of the Attorney General and his designee, the Immigration and Naturalization Service (INS). 8 U.S.C. 1101(a)(15)(H)(ii) and 1184(c). Pursuant to the requirement that the Attorney General consult with appropriate agencies of the government concerning the importation of nonimmigrant (so-called "H–2") workers, INS has determined that prior to granting or denying such a petition, it first will request DOL to advise INS on the availability of qualified U.S. workers for the jobs offered to the H–2 aliens, and whether the wages and working conditions attached to such a job offer will adversely affect similarly employed U.S. workers. 8 U.S.C 1184(c); CFR 214.2(h)(3)(i).

Pursuant to the INS regulations, ETA has published regulations at 20 CFR Part 655, Subpart C, for the certification of nonimmigrant aliens for temporary employment in agriculture and logging in the United States. DOL has determined that similarly employed United States workers had been adversely affected by the importation and employment of nonimmigrant aliens in agricultural employment. It has been determined further that employment of those aliens in a number of States at wages below specially computed adverse effect wage rates (AEWRs) would adversely affect the wages of similarly employed United States workers. 20 CFR 655.202(b)(9) and 655.207.

Since 1968, these special AEWRs had been computed by adjusting the provious year's AEWR for a State by the same percentage change as the annual average wage rates for field and livestock workers, as surveyed by the Untied States Department of Agriculture (USDA). See 41 FR 25018 (June 22, 1976). However, in 1981 USDA substantially reduced its number of surveys and ceased compiling annual average wage rates. Consequently, the methodology established in 1968 for computing AEWRs was no longer adequate. AEWRs for 1981 were able to be published under the then existing methodology, but, due to the diminished USDA data, for 1982 it was necessary to extend the 1981 AEWRs for another year. This action was reported by DOL in the **Federal Register.** 47 FR 37980 (August 27, 1982).

Farmworkers in three States objected to the extension of 1981 AEWRs into 1982, and brought suit in the U.S. District Court for the District of Columbia. The Order in *Bragg* v. *Donovan,* Civil Action No. 82–2361 (D.D.C. August 25, 1982), required DOL to establish a methodology and set 1982 AEWRs for those States. After a full notice and comment period, DOL established by regulation new AEWRs for those three States (Florida sugar cane, Vermont, and Maine), and for West Virginia, the State whose farmworkers were the original plaintiffs in *NAACP* v. *Donovan, supra.* See 20 CFR 655.207(b) (1983); 48 FR 235 (January 4, 1983). The methodology set the AEWRs beginning in 1982 by comparing the historic relationship between the more limited post-1980 USDA and the data USDA collected before 1981.

Pursuant to the court's various Orders in the two referenced cases, these AEWRs were to be paid retroactively for work performed in the 1982 harvest season. Had the 1982 AEWR in West Virginia been increased using the same data series as was used for the three States in the *Bragg* case, covered employers in the State would have had to pay retroactively a 17.2% increase in wages for the season. Therefore, in the rule published on January 4, 1983, DOL determined to spread West Virginia's AEWR increase over two years. The 1982 AEWR increase would have been 10%, to prevent economic harm to the small agricultural employers in that State who utilize nonimmigrant alien workers. See 48 FR 235 (January 4, 1983). The AEWR for West Virginia in 1983 was to rise another 7.2% over the 1981 AEWR. The June 28, 1983, *NAACP* v. *Donovan* Order overturned DOL's detemination, and required the agency to increase the AEWR for West Virginia a full 17.2% over the 1981 rate—to $4.24 per hour—and to require that it be paid

retroactively for work in the 1982 harvest.

2. Proposed Rule

The rule set forth below would establish a new methodology for setting the 1983 AEWRs. Rather than depending on data supplied by USDA to determine wage movements, DOL will rely on data received by DOL's Bureau of Labor Statistics (BLS) through the Employment and Wages Program (the "ES–202 Program").

The ES–202 Program is a cooperative activity of BLS and the State employment security (unemployment compensation and job service) agencies. Annual changes in the AEWR for each State would be directly proportional to the changes in average weekly wages for similarly employed workers covered by unemployment insurance (UI) in the State. The AEWR would not be set at the level of average weekly wages in the ES–202 data, but would follow the movement of average weekly wages in that data series.

Since 1978, agricultural labor has been covered broadly under all the States' UI laws. See 26 U.S.C. 3306(a)(2) and (c)(1); and sections 111 and 114 of Pub. L. 94–566. At minimum, employees of agricultural firms employing at least 10 workers in 20 weeks or having a $20,000 quarterly payroll are covered by UI. Some State UI laws have broader coverage of agricultural labor.

As part of their UI programs, the State employment security agencies receive from each UI-covered employer quarterly reports showing: the number of workers on the payroll, total wages, taxable wages, and UI contributions (State UI taxes). The State agencies, in turn, report this information to BLS showing the number of UI-covered establishments, employment during the mid-week of each month, and total wages paid during the quarter. Wages are reported by Standard Industrial Classification (SIC) code, including various categories of agricultural crop producers. It is anticipated that data on agricultural wage movements in SIC Codes Nos. 013, 016, 017, 019, 071, and 072 will be used, since these categories include the employers using the bulk of the imported nonimmigrant alien agricultural labor.

Using these data, it is possible to prepare estimates of average weekly wages by year, providing excellent information on wage trends in agricultural and other industries. Using the data in the ES–202 report, the AEWR wold be adjusted annually by the year-to-year change in the average weekly wages for agriculture (in the above-referenced SIC codes) in the State. As was done when AEWR wage movements were keyed to USDA-surveyed wage movements, the AEWRs six New England States will move as a unit (*i.e.*, by the same percentages), although the AEWRs in some States would differ, due to the variations in the base. New England has a relatively small universe of reporting units, and it is believed that a region-wide movement would more accurately reflect actual wage movements in the region. Similarly, ETA will be treating Maryland, Virginia, and West Virginia as a unit for wage movements, although their AEWRs would differ, due to variations in the AEWR base.

The broad universe coverage, continuity, and currency of the ES–202 program make its data one of the most useful data bases for determining wage movements in all United States industries. Some other uses being made of the data series are described below:

a. The series is used by the Department of Commerce as part of the wage and salary component, to determine gross national product and personal income.

b. The Social Security Administration uses ES–202 data in updating economic assumptions and forecasting trends in the taxable wage base.

c. The data in these reports have been used by BLS to develop a series for the Department of Health and Human Services to adjust Medicare payments to hospitals to reflect changes in labor costs.

d. ETA has used ES–202 wage data to determine allowable wage supplementation for public service employees in the Countercyclical Public Service Employment Program under Title VI of the Comprehensive Employment and Training Act (CETA). Congress endorsed the use of such wage data. See section 609(2) of CETA; 29 U.S.C. 969(2) (1978).

e. State and federal UI agencies use the data for a myriad of uses in administering the cooperative system of federal and State UI laws. The data show the extent of UI coverage, records revenues and disbursements, measures unemployment, allows actuarial studies, and determines maximum UI benefit levels, experience ratings, and areas needing federal assistance. The data also help ensure the solvency of the UI Funds.

f. Public and private research organizations use the ES–202 report as one of their best sources of detailed employment and wage statistics.

The ES–202 reporting system is carefully reviewed by State and Federal labor statisticians. The data are recognized by competent statistical authorities as being valid and form a basis for the BLS *Employment and Earnings* series. The data can be used in a methodology for the AEWR determination that is fair, reasonable, and cost effective.

The ES–202 Program, including its coverage and uses, is described more fully in Chapter 5, "Employment and Wages Covered by Unemployment Insurance," of the *BLS Handbook of Methods*, Vol. 1, BLS Bulletin No. 2134–1 (December 1982). A reproduction of Chapter 5 follows this document as an appendix, but will not appear in the Code of Federal Regulations with the final rule.

Use of the ES–202 report has the additional advantage that the wage survey does not include the wages of nonimmgrant alien workers, who are excluded by statute from unemployment compensation coverage. 26 U.S.C. 3306(c)(1)(B). Further, although UI coverage of agricultural labor is not universal, there is significant coverage in States where the temporary alien agricultural labor certification program operates.

3. 1983 AEWRs

The 1983 AEWRs, in general, would be determined using the 1981 AEWRs as the base. The 1981 AEWRs were the last set using the historically used USDA data series and were the most reliable of the wage rates set this far in the 1981–83 period. The 1983 AEWR, unless higher in the past, would be the State's 1981 AEWR changed by the same percentage as the change in average weekly wages for agricultural crop activities (SIC Codes Nos. 013, 016, 017, 019, 071, and 072) from 1979 to 1981 for the applicable ES–202 reporting area.

If the proposed methodology is used past 1983, the one-year wage movement for the third year previous to the second year previous would be used to set the movement from the prior year's AEWR to the current year's AEWR. Thus, the 1984 AEWR would be set by applying to the 1983 AEWR the percentage change in the applicable ES–202 data for 1981–82.

The applicable ES–202 unit will be the State, except that New England, and the Maryland/Virginia/West Virginia area, will each be treated as a unit for examining movements in average weekly wages.

Absent a future change in the AEWR methodology, the AEWR thereafter would be adjusted annually by the year-to-year change in the applicable ES–202 average weekly agricultural wages. In those States in which the 1981 or 1982 AEWRs, set by interim methodology or

order of the court was higher than that computed by the applicable percentage increase in ES–202 data, the highest of the AEWRs would apply, until such time (if any) as the AEWR computed using the ES–202 data exceeds the prior AEWR.

Under the methodology set forth in the rule below, the 1983 AEWRs would be as set forth in the list below. In West Virginia, the 1982 AEWR was $4.24, as ordered by the court in *NAACP* v. *Donovan*. While the ES–202 based methodology would have resulted in a 1983 AEWR of $4.16 in West Virginia, the prior year's rate of $4.24 will be continued in 1983. The final rule published on January 4, 1983, had announced that the 1983 AEWR for West Virginia would continue to be $4.24. 48 FR 235.

State	1983 AEWR
Arizona	$4.73
Colorado	4.34
Connecticut	4.44
Florida (sugar cane only)	5.96
Florida (except sugar cane)	4.82
Maine	4.56
Maryland	4.37
Massachusetts	4.44
New Hampshire	4.76
New York	3.63
Rhode Island	4.44
Texas	4.67
Vermont	4.69
Virginia	4.38
West Virginia	4.24

4. AEWR Methodologies in the Future

The rulemaking meets the critical need, created by the recent Orders in *NAACP* v. *Donovan* and the impending 1983 harvest season, to set AEWRs for 1983 and does not foreclose a determination by DOL to institute in 1984 or later years other changes in the AEWR regulations.

Piece Rates

Historically, DOL has determined that workers should not be required to increase their level of productivity in order to earn, at minimum, the hourly AEWR. Conversely, if the employer's piece rate for a particular crop activity allowed the average worker to receive earnings at or above the AEWR, that piece rate has been acceptable. Thus, if average hourly earnings for the average worker in the preceding year equalled or exceeded the applicable AEWR, the piece rate for that crop activity did not need to be raised. See 20 CFR 655.207(c). This interpretation of DOL's regulation on piece rates was reflected in its issuances to ETA regional offices and to State job service agencies. See § A.6.a(3) of Attachment 1 to ETA General Administration Letter (GAL) No. 46–81.

In the two *NAACP* v. *Donovan* Orders described above, the court held that DOL's interpretation of its own regulation is invalid and ordered that the piece rates be increased each time the AEWRs increase, based upon the productivity in that crop activity in 1977. The 1977 productivity rate is determined by dividing the 1977 AEWR by the piece rate for that crop activity. The current piece rate would be equal to the current AEWR divided by the 1977 productivity rate.

The result of the court's interpretation would have been to guarantee workers' earnings at levels above that determined by DOL as the adverse effect level. Employers who paid a higher than average piece rate in 1977, and whose workers earned at times far above the adverse effect level, would have been bound to maintain their workers at levels of earnings above the hourly AEWR required by 20 CFR 655.207(b).

While the rule set forth in this document would restore DOL's interpretation of its regulation, as set forth in GAL No. 46–81, described above, the goals of DOL and the plaintiffs' in *NAACP* v. *Donovan* are much the same. Workers should not be required to increase productivity to earn the applicable AEWR. However, the AEWR is meant to be a minimum, not an escalator to maintain earnings (or to set "attractive" wages) above the adverse effect level.

Florida (Other Than Sugar Cane Work)

The proposed rule establishes an AEWR for agricultural employmnent in Florida. A separate AEWR would continue to be set for Florida sugar cane work. Nonimmigrant aliens were admitted in 1982 for lettuce picking in Florida. To avoid the adverse effect which employment of such aliens would have on the wages of similarly employed United States workers, it has been DOL's practice in the past to establish computed AEWRs when there has been employment of such aliens in a State. An unpublished AEWR for Florida (other than sugar cane) has been computed, using USDA data, for many years. The 1981 AEWR computed by that earlier methodology would be the base for Florida, and the 1983 AEWR would be set according to the same ES–202-based methodology set forth in the rule below.

Technical Amendments

Other minor technical amendments, such as establishing the date by which AEWRs annually must be announced and published, are necessitated by the second Order in *NAACP* v. *Donovan*, and are set forth in the rule below.

Discretion in Setting AEWRs

Section 214(c) of the Immigration and Nationality Act gives the Attorney General (and his designee INS) broad discretion in the admission of nonimmigrant aliens to the United States. 8 U.S.C. 1184(c). With respect to determinations under the immigration laws on the availability of United States workers for jobs offered to nonimmigrant alien workers, and the adverse effect those aliens' employment may have on the wages and working conditions of similarly employed United States workers, the Secretary of Labor and DOL have been given broad discretion. See *e.g.*, 8 CFR 214.2(h)(3)(i). This broad discretion, particularly methodologies for setting AEWRs under the immigration laws, has been recognized in the federal appellate and district courts. *Rowland* v. *Marshall*, 650 F. 2d 28 (4th Cir. 1981); *Williams* v. *Usery*, 531 F. 2d 305 (5th Cir. 1976), *cert. denied*, 429 U.S. 1000; *Florida Sugar Cane League* v. *Usery*, 531 F. 2d 299 (5th Cir. 1976); and *Limoneira Co.* v. *Wirtz*, 327 F. 2d 499 (9th Cir. 1964), *aff'g* 225 F. Supp. 961 (S.D. Cal. 1963); *See also Elton Orchards, Inc.* v. *Brennan*, 508 F. 2d 493 (1st Cir. 1974); and *Flecha* v. *Quiros*, 567 F. 2d 1154 (1st Cir. 1977). These decisions acknowledge DOL's discretion in the area of AEWRs and form the basis for construction of DOL's temporary alien labor certification regulations. *See* 20 CFR 655.0(e).

Since this is an area in which DOL has great "discretion to reach a number of different results rather than an area of pure statutory interpretation as to which there is in theory only a single answer", DOL is proposing the rule below. *See Building & Construction Trades' Department, AFL–CIO* v. *Donovan*, No. 83–1118,———F. 2d——— (D.C. Cir. July 5, 1983), Slip Op. at 15.

While the rule would change the data series by which wage movements are charted and applied to AEWRs, it is within DOL's discretion make such a change. Similarly, the revision of the piece rate regulation to reflect the original intent of DOL, and to protect U.S. workers' wages, at minimum, at an adverse effect level, is well within DOL's statutory and regulatory discretion. As the D.C. Circuit stated in *Building & Construction Trades' Department, AFL–CIO* v. *Donovan*, *supra*, "prior administrative practice carries much less weight than reviewing an action taken in the area of discretion, when little more than a clear statement is needed, than when reviewing an

...on in the field of interpretation, ...here it is thought that the agency's ...ntemporaneous and consistent ...terpretation of one of its enabling ...atutes is reliable evidence of what Congress intended." Slip Op. at 15–16.

Development of Proposed Rule

This proposed rule was developed under the direction and control of Mr. Richard C. Gilliland, Director, United States Employment Service, Room 8000—Patrick Henry Building, 601 D Street, NW., Washington, D.C. 20213.

Regulatory Impact

The proposed rule would affect only those employers using nonimmigrant alien workers in temporary agricultural jobs in fourteen States. It does not have the financial or other impact to make it a major rule, and, therefore, the preparation of a regulatory impact analysis is not necessary. See Executive Order No. 12291 (February 17, 1981).

The Department of Labor has notified the Chief Counsel for Advocacy, Small Business Administration, and made the certification pursuant to 5 U.S.C. 605(b), that the proposed rule will not have a significant economic impact on a substantial number of small entities. It will not necessitate increased labor costs for employers whose workers now earn above the 1983 AEWR due to their productivity. Further, it applies only to the small number of employers who employ nonimmigrant aliens in agricultural jobs in fourteen States.

Catalogue of Federal Domestic Assistance Number

This program is listed in the *Catalogue of Federal Domestic Assistance* an Number 17.202, "Certification of Foreign Workers for Agricultural and Logging Employment".

List of Subjects in 20 CFR Part 655

Administrative practice and procedure, Agriculture, Aliens, Employment, Employment and Training Administration, Forests and forest products, Guam, Labor, Migrant labor, Wages.

Proposed Rule

Accordingly, it proposed that Part 655 of Chapter V of Title 20, Code of Federal Regulations, be amended by revising paragraphs (b) and (c) of § 655.207 thereof, to read as follows:

§ 655.207 Adverse effect rates.

* * * * *

(b) (1) For agricultural employment (except sheepherding) in the States listed in paragraph (b) (2) of this section, and for Florida sugar cane work, the adverse effect rate for each year shall be computed by adjusting the prior year's adverse effect rate by the percentage change (from the third year previous to the second year previous) in the ES–202 report's average weekly wage rates for the appropriate group of agricultural workers. The appropriate group of workers shall be those agricultural workers employed by establishments in Standard Industrial Classification (SIC) Codes Nos. 013, 016, 017, 019, 071 and 072 within that State (except that for purposes of wage movement, but not actual adverse effect rates, Connecticut, Maine, Massachusetts, New Hampshire, Rhode Island, and Vermont shall be considered as one State, and Maryland, Virginia, and West Virginia shall be considered as one State). The Administrator shall publish, in each calendar year, on a date he shall determine, adverse effect rates calculated pursuant to this paragraph (b) as a notice in the **Federal Register.**

(2) *List of States.* Arizona, Colorado, Connecticut, Florida (other than sugar cane work), Maine, Maryland, Massachusetts, New Hampshire, New York, Rhode Island, Texas, Vermont, Virginia, and West Virginia. Other States may be added as appropriate.

(3) Notwithstanding paragraphs (b) (1) and (2) of this section, the 1983 adverse effect rate shall be computed by adjusting the 1981 adverse effect rate by the percentage change in appropriate ES–202 average weekly wages from 1979 to 1981. The adverse effect rate for a State, set by this paragraph (b), shall be the highest of the rate computed by this methodology in paragraph (b) or the rate applied in the State in 1981 or 1982. Pursuant to the Order in *NAACP, Jefferson County Branch* v. *Donovan,* Civil Action No. 82–2315 (D.D.C. June 28, 1983), the 1982 adverse effect rate for West Virginia was $4.24.

(c) *Piece rate adjustments.* In any year in which the applicable adverse effect rate increases to the point where the employer's previous year's piece rate in a crop activity will not enable the average worker's hourly earnings to equal or exceed the new applicable adverse effect rate without requiring the average worker to increase productivity over the previous year, the employer shall increase the piece rate to a level at which the average worker would earn at least the adverse effect rate. If, at the employer's previous year's piece rate for that crop activity, the average worker's hourly earning equalled or exceeded the adverse effect rate, no adjustment to that piece rate would be required. As used in this paragraph (c), the "average worker" shall refer to the average worker in the applicable crop activity in the area of intended employment.

* * * * *

Secs. 101(a)(15)(H)(ii) and 214(c) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(15)(H)(ii) and 1184(c)); 8 CFR § 214.2(h)(3)(i))

Signed at Washington, D. C., this 19th day of July 1983.

Raymond J. Donovan,

Secretary of Labor.

Appendix

The material in this appendix appears only in the **Federal Register** and will not be codified as part of the final rule in the Code of Federal Regulations.

BILLING CODE 4510–30–M

Chapter 5. Employment and Wages Covered by Unemployment Insurance

The Employment and Wages program, commonly called the ES-202 program, is a cooperative endeavor of BLS and the employment security agencies of the 50 States, the District of Columbia, Puerto Rico, and the Virgin Islands. Using quarterly reports submitted by the agencies, BLS summarizes employment and wage data for workers covered by State unemployment insurance (UI) laws and for civilian workers covered by the program of Unemployment Compensation for Federal Employees (UCFE).

The program is a comprehensive and accurate source of employment and wage data, by industry, at the national, State, and county levels. It provides a virtual census of nonagricultural employees and their wages. In addition, about 40 percent of workers in agriculture are covered.

Background

The ES-202 program can trace its origins back to the Social Security Act of 1935, which authorized collection of information to determine if State unemployment compensation programs were in compliance with the act. From the inception of the national UI system in 1938, when the Federal Unemployment Insurance Tax Act became effective, until 1972, collection of the data, publication, and technical expertise were the responsibilities of the U.S. Department of Labor's Manpower Administration, or its predecessor agencies. Semiannual reports summarizing the data were issued until 1950, when the periodical *Employment and Wages* began quarterly publication. In 1972, BLS assumed responsibility and continued quarterly publication until 1975. *Employment and Wages* then became an annual publication until 1980, when quarterly issues were resumed.

Concepts and Methodology

Scope of coverage

In 1938, UI coverage and, consequently, ES-202 reporting requirements, extended only to private firms employing eight or more persons at least 20 weeks a year; certain employee groups were exempt. Insurance coverage was successively broadened, to include Federal civilian employees[1] (1955); firms employing four to seven employees and ex-military personnel[2] (1958); and firms employing one to three employees, and State colleges, universities, and hospitals (1972). In 1978, coverage was extended to nearly all other State and local public employees; to agricultural firms employing a minimum of 10 workers or having a $20,000 quarterly payroll; and to employers paying a quarterly minimum of $1,000 to domestic workers.[3]

UI coverage is broad and basically comparable from State to State. In 1981, UI and UCFE covered 90,641,808 workers, or 90.3 percent of civilian employment. Covered workers received $1,483 billion in pay or 95.7 percent of the wage and salary component of personal income. The principal exclusions from coverage are members of the Armed Forces, railroad employees, and most domestic workers, agricultural employees, and some employees of small nonprofit organizations. Also excluded are the self-employed and unpaid family members.

Establishment

An establishment is an economic unit, such as a farm, mine, factory, or store, which produces goods or provides services. It usually is at a single physical location and engaged in one, or predominantly one, type of economic activity, for which a single industrial classification may be applied. Occasionally, a single physical location encompasses two or more separate, distinct, and significant activities, having separate records, and classifiable in separate industrial codes. Each activity unit is then properly reported as a separate establishment.

Reporting units

A reporting unit is the economic unit for which the employer submits a contribution report or identifies

[1] Under the Unemployment Compensation for Federal Employees (UCFE) program.

[2] Under the Unemployment Compensation for Ex-servicemen (UCX) program.

[3] The coverage given is, in all cases, the minimum required by Federal law. State legislation often provides coverage for additional categories of workers.

Chapter 6. Employment and Wages Covered by Unemployment Insurance

separate locations on a supplemental form that is included with the regular contribution report.

Most employers covered under State UI laws operate at only one location and primarily or entirely engage in one activity. In such instances, the establishment and the reporting unit are identical. Multiunit employers having establishments in more than one county or classifiable in more than one 4-digit industry ordinarily must submit separate reports for each establishment. However, employers having a total of fewer than 50 employees in all secondary counties or industries may combine these units with the primary county or industry report.

Employers having a number of similar units, particularly in industries characterized by small branch establishments (food stores, drug stores, banks) are allowed to combine all branch establishments within a county on a single report, regardless of employment.

In government, the reporting unit is the installation (a single location at which a department, agency, or other government instrumentality has civilian employees). Federal agencies follow slightly different criteria from private employers in breaking down their reports by installations. They are permitted to combine as a single statewide unit (1) all installations with 10 workers or fewer and (2) all installations which have a combined total in the State of fewer than 50 workers. Also, when there are fewer than 25 workers in all secondary installations in a State, they may be combined and reported with the major installations.

As a result of these reporting rules, the number of reporting units is always larger than the number of employers (or government agencies) but smaller than the number of establishments (or installations).

Employment

Employment data represent the number of workers on the payroll during the pay period including the 12th of the month.[4] The pay period varies in length from employer to employer; for most employers, it is a 7-day period, but not necessarily a calendar week. An employer who pays on more than one basis (such as weekly for production employees and semimonthly for office employees) reports the sum of the number of workers on each type of payroll for the period.

The employment count includes all corporation officials, executives, supervisory personnel, clerical workers, wage earners, pieceworkers, and part-time workers. Workers are reported in the State and county of the physical location of their job. Persons on paid sick leave, paid holiday, paid vacation, and so forth are included, but those on leave without pay for the entire payroll period are excluded,

Persons on the payroll of more than one establishment are counted each time reported. Workers are counted even though their wages may be nontaxable for UI purposes during that period (having reached the taxable limit for the year).

The employment count excludes employees who earned no wages during the entire applicable period because of work stoppages, temporary layoffs, illness, or unpaid vacations; and employees who earned wages during the month but not during the applicable pay period.

Total wages

Total wages, for purposes of the quarterly UI reports submitted by employers in private industry in most States, include gross wages and salaries, bonuses, tips and other gratuities, and the value of meals and lodging, where supplied. Total wages, however, do not include employer contributions to old-age, survivors', disability, and health insurance (OASDHI), unemployment insurance, workers' compensation, and private pension and welfare funds.[5]

In most States, firms report the total wages paid during the calendar quarter, regardless of the timing of the services performed. Under laws of a few States, however, the employers report total wages earned during the quarter (payable) rather than actual amounts paid.

For Federal workers, wages represent the gross amount of all payrolls for all pay periods ending within the quarter. This gross amount includes cash allowances and the cash equivalent of any type of remuneration. It includes all lump-sum payments for terminal leave, withholding taxes, and retirement deductions. Federal employee remuneration generally covers the same types of services as those for workers in private industry. Depending on the method used by the Federal agency in preparing its quarterly summary balance (cash or accrual basis), the gross amount of payrolls is either paid or payable.

Taxable wages and contributions

Taxable wages are that part of wages subject to the State unemployment insurance tax. Contributions are calculated on taxable wages and are reported quarterly.

Under Federal law, certain units of State and local governments and certain nonprofit establishments may elect to reimburse the State for any unemployment insurance claims that have been filed against them. These reimbursable accounts are not subject to the quarterly

[4] The Department of Defense is an exception. The employment count in installations of the Department of Defense covers all persons employed on the last workday of the month plus all intermittent employees during the month. Intermittent workers are occasional workers who were employed at any time during the month.

[5] Employee contributions for the same purposes, as well as money withheld from the employee's gross pay for income taxes, union dues, etc., are excluded in the UI reports.

assessment for Unemployment Insurance funds and, therefore, their taxable wages and contributions are not reported.

In mid-1982, approximately half the States required that employers pay UI taxes on the first $6,000 of employee wages—the minimum established by Federal law. The remaining States established higher limits on taxable earnings. The portion of wages subject to taxation has varied substantially over time. In mid-1982 also, about half the States allowed employers to obtain lower tax rates by making voluntary contributions to the unemployment tax fund. A small number of States also require contributions from employees. Such contributions are included without separate identification.

Industrial classification

State employment security agencies use the current Standard Industrial Classification (SIC) Manual to classify each reporting unit according to its primary activity. States assign a 4-digit industrial code to all new units and review and update codes, where necessary, on a 3-year cycle. Establishments or government installations reporting more than one activity allocate the proper proportion of total production, revenue, sales, or payroll costs (depending on the industry group) to each activity. The State agency designates the proportionately largest activity as the primary activity. Occasionally, two or more relatively minor activities may be determined to fall within the same industry classification and, when combined, become the primary activity.

In some industries, separate establishments of the same employer often carry on the same activities, in the same proportions, and may be combined at the county level. Sometimes, however, the proportions vary to such a degree that the units must be classified in differing industries and file separate reports.

Since 1938, the industrial classification of business establishments and government installations has undergone a number of modifications. (See table.) Until 1945, classification was based on the *Social Security Board* (SSB) *Classification Manual*. At that time, the basis was changed to the SIC Manual, which since has been revised several times. Originally, establishments were classified into 20 manufacturing and 60 nonmanufacturing groups, on a 2-digit basis. The number of such groups has remained fairly constant. Three-digit groupings were added in 1942 and 4-digit groupings were added for manufacturing in 1956 and for nonmanufacturing in 1968. (See table.) Statewide 4-digit classifying for nonmanufacturing did not become mandatory until 1978. A few industry exceptions allow 3-digit coding (34 4-digit SIC's are collapsed into 9 3-digit SIC's). These few exceptions are coded at the 3-digit level because it is difficult to get systematic and accurate information sufficient to code at the 4-digit level.

Industrial classification of employment and wage data, 1938–81

Period	Number of industry groups by:			Basis of industrial classification						
				Social Security Board (SSB)		Standard Industrial Classification (SIC)				
	2-digit code	3-digit code	4-digit code	1939 edition	1942 edition	1945 edition	1957 edition	1987 edition	1972 edition	1977 edition
Manufacturing										
1938-41	20			X						
1942-46	21	146			X					
1947-55	21	150				X				
1956-57	21	150	[1]489			X				
1958-67	21	148	[1]433				X			
1968-74	21	148	[1]417					X		
1975-78	20	143	451						X	
1979-81	20	143	452							X
Nonmanufacturing										
1938-41	60			X						
1942-57	56	256			X					
1958-67	58	236					X			
1968-74	62	235	[2]494					X		
1975-77	64	277	[2]553						X	
1978	64	277	553						X	
1979-81	64	277	553							X

[1] January-March quarter only.

[2] Not coded on a mandatory basis.

Collection methods

Approximately 4.5 million reporting units in the nonagricultural private sector submit quarterly reports to State agencies, with data on monthly employment, quarterly total and taxable wages, and contributions. In addition, the 53 State agencies receive reports from about 33,000 reporting units of the Federal Government for their civilian employees under the UCFE program in each State; they also receive reports covering nearly 99 percent of State and 96 percent of local government employees, and about 40 percent of all farm workers.

The State agencies summarize and codify the raw data; check for missing information and errors; prepare estimates of data for delinquent reports; and finally, machine process the data onto magnetic tapes. Five months following the end of each quarter, the agencies are scheduled to send the tapes to Washington. The States have the option of either submitting two tapes—(1) statewide by 4-digit industry and (2) county by 2-digit industry—or one tape, 4-digit industry by county. Most States provide the latter.

BLS, in turn, further summarizes these data at county, State, and national levels, by industry and by size of reporting unit, and publishes the summaries in the quarterly and annual *Employment and Wages* publication.

The individual States, which have a wide range of uses for these data, usually publish their own ES-202 reports.

Comparison of the ES-202 Program with Other Series

A number of statistical data series, in addition to the ES-202 program, produce employment and wage data comparable in some respects to those obtained by ES-202. These series all have certain applications, strengths, and shortcomings. The ES-202 program, because of its broad universe coverage, continuity, and currency, is one of the most useful.

Economic Census and County Business Patterns

The Bureau of the Census conducts a census of most industries every 5 years. These data, along with the annual Company Organization Survey for multiunits and data from the Internal Revenue Service and Social Security Administration for single units, are combined to develop *County Business Patterns (CBP)* reports. The Census information is similar to ES-202 data, although various differences in concepts and methodology make comparisons difficult, particularly in some measurements, such as size of firm. The Bureau of the Census uses a finer establishment breakdown than the ES-202 reporting concept, so that numbers of units and employment per unit may differ. The Bureau of the Census separately tabulates central administrative offices and auxiliaries at the division level only. Therefore, industry breakouts of private sector data at the 2-digit, 3-digit, or 4-digit level will exclude these groups.

In addition, the census reports exclude public sector employees (except in the *Census of Government*). Some censuses (but not *County Business Patterns*) include self-employed persons in the retail trade, construction, and service industries, who are not covered by UI. The censuses also impute employment data, while ES-202 adheres to reported figures. The ES-202 data are more frequently updated and consequently the program maintains more continuity.

Current Employment Statistics

The Current Employment Statistics (CES), or 790 program of BLS, employs a sample of 177,000 establishments to provide current estimates of monthly nonagricultural employment, average hourly earnings, average weekly earnings, and average weekly hours. The 790 program's employment estimates are benchmarked primarily to ES-202 records, which cover about 98 percent of all nonagricultural employees and 97 percent of those in the private nonagricultural sector. For the remaining industries, 790 uses several other sources, including the Bureau of the Census' *County Business Patterns* for certain salespersons and agents, the Interstate Commerce Commission data for railroad workers, the U.S. Department of Education and the National Catholic Welfare Association data for private elementary and secondary schools, and the National Council of Churches data and State surveys for religious organizations.

In addition to being sample-based as opposed to being a universe count, the 790 program differs from ES-202 in that it provides hourly earnings for production (nonsupervisory) workers only whereas ES-202 provides total payroll data for all employees, unrelated to hours.

Office of Personnel Management

The Office of Personnel Management (OPM) maintains a statistical series on Federal employment and payroll information by agency, type of position and appointment, and employee demographic characteristics. Both the OPM and the ES-202 series exclude the Central Intelligence Agency and the National Security Agency, the Armed Forces, temporary emergency workers, and crews of certain vessels. The OPM, but not ES-202, includes employees working in foreign countries, workers paid on a fee or commission basis, and paid patients, inmates, and certain employees of Federal institutions, whereas the ES-202, but not OPM, includes Department of Defense employees paid from nonappropriated funds, employees of the Agricultural Extension Service, County Agricultural Stabilization and Conservation

Committees, and State and Area Marketing Committees.

In comparison with the OPM data, ES-202 data provide more industry and local employment and wage detail, and more frequently updated detail on employment by State. OPM, of course, has certain statistics that have no parallel in ES-202.

Current Population Survey

The Current Population Survey (CPS) is a sample survey of 60,000 households chosen to represent the entire civilian noninstitutional population and labor force. Therefore, the sample includes categories of workers which are entirely or partly excluded from the ES-202 program—certain farm and domestic workers, the self-employed, persons working 15 hours or more in the survey week as unpaid workers in an enterprise operated by a member of the family, employees of certain nonprofit organizations, and railroads. The CPS also counts employees uncompensated because of temporary absence, but excludes workers under 16 years old. Because the CPS is a sample and surveys households rather than establishments, it cannot present employment and wage data in the industrial and geographical detail available under the ES-202 program, but it does provide demographic characteristics.

Presentation

Employment and Wages, an annual and quarterly BLS publication, presents State and national totals for covered employment and wages by broad industry division and major industry group. Data for Federal workers also are shown by agency, industry, and State.

For the first quarter of each year, the publication includes distributions of employment and wages by size of reporting unit for each major industry division within each State and by industry for the United States as a whole. These data are distributed in nine employment-size categories.

To preserve the anonymity of establishments, BLS withholds publication of data for any county, State, or national industry level in which there are fewer than three reporting units, or in which the employment of a single installation or establishment accounts for over 80 percent of the industry. At the request of a State, data are also withheld where there is reason to believe that the "fewer than three" rule would not prevent disclosure of information pertaining to an individual reporting unit or would otherwise violate the State's disclosure provisions. Information concerning Federal employees, however, is fully disclosable.

In addition to published information, unpublished data, such as county level data and 3-digit industry data by State are available upon request. Depending on the request, the data may be provided, for a nominal fee, on microfiche or magnetic tape.

Uses

As the most complete universe of monthly employment and quarterly wage information by industry, county, and State, the ES-202 series has broad economic significance in evaluating labor trends and major industry developments in time series analyses and industry comparisons, and in special studies such as analyses of wages by size of firm.

The program provides data necessary to both the Employment and Training Administration and the various State Employment Security Agencies in administering the employment security program. The data accurately reflect the extent of coverage of the State unemployment laws and are used to measure UI revenues and disbursements; national, State, and local area employment; and total and taxable wage trends. The information allows actuarial studies, determination of experience ratings, maximum benefit levels, areas needing Federal assistance, and also helps ensure the solvency of Unemployment Insurance funds.

The ES-202 data are used by a variety of other BLS programs. They serve, for example, as the basic source of benchmark information for employment by industry and by size of firm in the Current Employment Statistics Program (BLS 790). The Unemployment Insurance Name and Address File, compiled from ES-202 reports, also serves as a national sampling frame for establishment surveys by the Industry/Area Wage, Occupational Employment Statistics, and Occupational Safety and Health Statistics programs.

Additionally, the Bureau of Economic Analysis of the Department of Commerce uses ES-202 wage data as a base for estimating a large part of the wage and salary component of national personal income and gross national product. These estimates are instrumental in Federal allocation of revenue-sharing funds to State and local governments. The Social Security Administration also uses ES-202 data in updating economic assumptions and forecasting trends in the taxable wage base.

Finally, the ES-202 report is one of the best sources of detailed employment and wage statistics used by business and public and private research organizations.

Technical References

Armknecht, Paul A., and Cartwright, David W. "Statistical Uses of Administrative Records," *Selected Papers From Annual Meeting of the American Statistical Association, October 1979.* U.S. Department of Health, Education, and Welfare, Social Security Administration.

Bunke, Alfred L. *Quarterly Report of Employment, Wages, and Contributions* (ES-202), *Selected Papers From North American Conference on Labor Statistics, 1973.* U.S. Department of Labor, Bureau of Labor Statistics.

Ehrenhalt, Samuel M. "Some Thoughts on Planning a Comprehensive Employment Statistics Program," *Selected Papers From North American Conference on Labor Statistics, 1973.* U.S. Department of Labor, Bureau of Labor Statistics.

U.S. Department of Labor, Manpower Administration (now Employment and Training Administration). "Technical Notes on Insured Unemployment, Covered Employment, and Wage Statistics: Their Source, Nature, and Limitations," *Summary of Employment Security Statistics Reports,* 1975.

U.S. Department of Labor. "Employment, Wages, and Contributions, ES-202," *Employment Security Manual,* Part III, Sections 0400-0599, as revised in 1972.

[FR Doc. 83-19932 Filed 7-21-83; 8:45 am]
BILLING CODE 4510-30-C

LLB

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

43 CFR Part 8360

[Circular No. 2531]

Recreation Management; Prohibited Acts and Penalties

Under the authority of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1701, *et seq.*), the Taylor Grazing Act (43 U.S.C. 315a), the Sikes Act (16 U.S.C. 670g), the Wild and Scenic Rivers Act (16 U.S.C. 1281c, *et seq.*), the Land and Water Conservation Fund Act (16 U.S.C. 460*l*–6a), and the National Trails System Act (16 U.S.C. 1241, *et seq.*), Part 8360, of Subchapter H, Chapter LL of Title 43 of the Code of Federal Regulations is revised to read as set forth below:

PART 8360—VISTOR SERVICES

Subpart 8360—General

Sec.
8360.0–3 Authority.

Sec.
8360.0–5 Definitions.
8360.0–7 Penalties.

Subpart 8361—Emergency Services [Reserved]

Subpart 8362—Interpretive Services [Reserved]

Subpart 8363—Resource and Visitor Protection [Reserved]

Subpart 8364—Closures and Restrictions

8364.1 Closure and restriction orders.

Subpart 8365—Rules of Conduct

8365.0–1 Purpose.
8365.0–2 Objective.
8365.1 Public lands—general.
8365.1–1 Sanitation.
8365.1–2 Occupancy and use.
8365.1–3 Vehicles.
8365.1–4 Public health, safety and comfort.
8365.1–5 Property and resources.
8365.1–6 Supplementary rules.
8365.1–7 State and local laws.
8365.2 Developed recreation sites and areas.
8365.2–1 Sanitation.
8365.2–2 Audio devices.
8365.2–3 Occupancy and use.
8365.2–4 Vehicles.
8365.2–5 Public health, safety and comfort.

Authority: 43 U.S.C. 1701 *et seq.*, 43 U.S.C. 315a, 16 U.S.C. 1281c, 16 U.S.C. 670 *et seq.*, 16 U.S.C. 460*l*–6a, 16 U.S.C. 1241 *et seq.*

Subpart 8360—General

§ 8360.0–3 Authority.

The regulations of this part are issued under the provisions of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1701 *et seq.*), the Sikes Act (16 U.S.C. 670g), the Taylor Grazing Act (43 U.S.C. 315a), the Wild and Scenic Rivers Act (16 U.S.C. 1281c), the Act of September 18, 1960, as amended, (16 U.S.C. 877 et seq.), the Land and Water Conservation Fund Act (16 U.S.C. 460*l*–6a) and the National Trails System Act (16 U.S.C. 1241 *et seq.*).

8360.0–5 Definitions.

As used in this part, the term:

(a) "Authorized officer" means any employee of the Bureau of Land Management who has been delegated the authority to perform the duties described in this part.

(b) "Campfire" means a controlled fire occurring out of doors, used for cooking, branding, personal warmth, lighting, ceremonial or aesthetic purposes.

(c) "Developed sites and areas" means sites and areas that contain structures or capital improvements primarily used by the public for recreation purposes. Such sites or areas may include such features as: delineated spaces for parking, camping or boat launching; sanitary facilities; potable water; grills or fire rings; tables; or controlled access.

(d) "Public lands" means any lands and interests in lands owned by the United States and administered by the Secretary of the Interior through the Bureau of Land Management without regard to how the United States acquired ownership.

§ 8360.0–7 Penalties.

Violations of any regulations in this part by a member of the public, except for the provisions of § 8365.1–7, are punishable by a fine not to exceed $1,000 and/or imprisonment not to exceed 12 months. Violations of supplementary rules authorized by § 8365.1–6 are punishable in the same manner.

Subpart 8361—Emergency Services [Reserved]

Subpart 8362—Interpretive Services [Reserved]

Subpart 8363—Resource and Visitor Protection [Reserved]

Subpart 8364—Closures and Restrictions

§ 8364.1 Closure and restriction orders.

(a) To protect persons, property, and public lands and resources, the authorized officer may issue an order to close or restrict use of designated public lands.

(b) Each order shall:

(1) Identify the public lands, roads, trails or waterways that are closed to entry or restricted as to use;

(2) Specify the uses that are restricted;

(3) Specify the period of time during which the closure or restriction shall apply;

(4) Identify those persons who are exempt from the closure or restrictions;

(5) Be posted in the local Bureau of Land Management Office having jurisdiction over the lands to which the order applies;

(6) Be posted at places near and/or within the area to which the closure or restriction applies, in such manner and location as is reasonable to bring prohibitions to the attention of users;

(7) Include a statement on the reasons for the closure; and

(c) In issuing orders pursuant to this section, the authorized officer shall publish them in the **Federal Register.**

(d) Any person who fails to comply with a closure or restriction order issued under this subpart may be subject to the penalties provided in § 8360.0–7 of this title.

Subpart 8365—Rules of Conduct

§ 8365.0–1 Purpose.

The purpose of this subpart is to set forth rules of conduct for the protection of public lands and resources, and for the protection, comfort and well-being of the public in its use of recreation areas, sites and facilities on public lands.

Published in 48 F.R. 36382, August 10, 1983 - Effective September 9, 1983

§ 8365.0–2 Objectives.

The objective of this subpart is to insure that public lands, including recreation areas, sites and facilities, can be used by the maximum number of people with minimum conflict among users and minimum damage to public lands and resources.

§ 8365.1 Public lands—general.

The rules in this subsection shall apply to use and occupancy of all public lands under the jurisdiction of the Bureau of Land Management. Additional rules for developed sites and areas are found in § 8365.2 of this title.

§ 8365.1–1 Sanitation.

(a) Whenever practicable, visitors shall pack their trash for disposal at home.

(b) On all public lands, no person shall, unless otherwise authorized:

(1) Dispose of any cans, bottles and other nonflammable trash and garbage except in designated places or receptacles;

(2) Dispose of flammable trash or garbage except by burning in authorized fires, or disposal in designated places or receptacles;

(3) Drain sewage or petroleum products or dump refuse or waste other than wash water from any trailer or other vehicle except in places or receptacles provided for that purpose;

(4) Dispose of any household, commercial or industrial refuse or waste brought as such from private or municipal property;

(5) Pollute or contaminate water supplies or water used for human consumption; or

(6) Use a refuse container or disposal facility for any purpose other than for which it is supplied.

§ 8365.1–2 Occupancy and use.

On all public lands, no person shall:

(a) Camp longer than the period of time permitted by the authorized officer; or

(b) Leave personal property unattended longer than 10 days (12 months in Alaska), except as provided under § 8365.2–3(b) of this title, unless otherwise authorized. Personal property left unattended longer than 10 days (12 months in Alaska), without permission of the authorized officer, is subject to disposition under the Federal Property and Administrative Services Act of 1949, as amended (40 U.S.C. 484(m)).

§ 8365.1–3 Vehicles.

When operating a vehicle on the public lands, no person shall exceed posted speed limits, willfully endanger persons or property, or act in a reckless, careless or negligent manner.

§ 8365.1–4 Public health, safety and comfort.

No person shall cause a public disturbance or create a risk to other persons on public lands by engaging in activities which include, but are not limited to, the following:

(a) Making unreasonable noise;

(b) Creating a hazard or nuisance;

(c) Refusing to disperse, when directed to do so by an authorized officer;

(d) Resisting arrest or issuance of citation by an authorized officer engaged in performance of official duties; interfering with any Bureau of Land Management employee or volunteer engaged in performance of official duties; or

(f) Knowingly giving any false or fraudulent report of an emergency situation or crime to any Bureau of Land Management employee or volunteer engaged in the performance of official duties.

§ 8365.1–5 Property and resources.

(a) On all public lands, unless otherwise authorized, no person shall:

(1) Willfully deface, disturb, remove or destroy any personal property, or structures, or any scientific, cultural, archaeological or historic resource, natural object or area;

(2) Willfully deface, remove or destroy plants or their parts, soil, rocks or minerals, or cave resources, except as permitted under paragraph (b) or (c) of this subsection; or

(3) Use on the public lands explosive, motorized or mechanical devices, except metal detectors, to aid in the collection of specimens permitted under paragraph (b) or (c) of this subsection.

(b) Except on developed recreation sites and areas, or where otherwise prohibited and posted, it is permissible to collect from the public lands reasonable amounts of the following for noncommercial purposes:

(1) Commonly available renewable resources such as flowers, berries, nuts, seeds, cones and leaves;

(2) Nonrenewable resources such as rocks, Minerals specimens, common invertebrate fossils and semiprecious gemstones;

(3) Petrified wood as provided under subpart 3622 of this title;

(4) Mineral materials as provided under subpart 3621 of this title; and

(5) Forest products for use in campfires on the public lands. Other collection of forest products shall be in accordance with the provisions of group 5500 of this title.

(c) The collection of renewable or nonrenewable resources from the public lands for sale or barter to commercial dealers may be done only after obtaining a contract or permit from an authorized officer in accordance with parts 3610 or 5400 of this title.

§ 8365.1–6 Supplementary rules.

The State Director may establish such supplementary rules as he/she deems necessary. These rules may provide for the protection of persons, property, and public lands and resources. No person shall violate such supplementary rules.

(a) The rules shall be available for inspection in each local office having jurisdiction over the lands, sites or facilities affected;

(b) The rules shall be posted near and/or within the lands, sites or facilities affected;

(c) The rules shall be published in the Federal Register; and

(d) The rules shall be published in a newspaper of general circulation in the affected vicinity, or be made available to the public by such other means as deemed most appropriate by the authorized officer.

§ 8365.1–7 State and local laws.

Except as otherwise provided by Federal law or regulation, State and local laws and ordinances shall apply and be enforced by the appropriate State and local authorities. This includes, but is not limited to, State and local laws and ordinances governing:

(a) Operation and use of motor vehicles, aircraft and boats;

(b) Huting and fishing;

(c) Use of firearms or other weapons;

(d) Injury to persons, or destruction or damage to property;

(e) Air and water pollution;

(f) Littering;

(g) Sanitation;

(h) Use of fire;

(i) Pets;

(j) Forest products; and

(k) Caves.

§ 8365.2 Developed recreation sites and areas.

The rules governing conduct and use of a developed recreation site or area shall be posted at a conspicuous location near the entrance to the site or area.

§ 8365.2-1 Sanitation.

On developed recreation sites and areas, no person shall, unless otherwise authorized:

(a) Clean fish, game, other food, clothing or household articles at any outdoor hydrant, pump, faucet or fountain, or restroom water faucet;

(b) Deposit human waste except in toilet or sewage facilities provided for that purpose; or

(c) Bring an animal into such an area unless the animal is on a leash not longer than 6 feet and secured to a fixed object or under control of a person, or is otherwise physically restricted at all times.

§ 8365.2-2 Audio devices.

On developed recreation sites or areas, unless otherwise authorized, no person shall:

(a) Operate or use any audio device such as a radio, television, musical instrument, or other noise producing device or motorized equipment in a manner that makes unreasonable noise that disturbs other visitors;

(b) Operate or use a public address system;

(c) Construct, erect or use an antenna or aerial for radiotelephone, radio or television equipment, other than on a vehicle or as an integral part of such equipment.

§ 8365.2-3 Occupancy and use.

In developed camping and picnicking areas, no person shall, unless otherwise authorized:

(a) Fail to pay any fees imposed in accordance with 36 CFR Part 71.

(b) Pitch any tent, park any trailer, erect any shelter or place any other camping equipment in any area other than the place designed for it within a designated campsite;

(c) Leave personal property unattended for more than 24 hours in a day use area, or 72 hours in other areas. Personal property left unattended beyond such time limit is subject to disposition under the Federal Property and Administration Services Act of 1949, as amended (40 U.S.C. 484(m));

(d) Build any fire except in a stove, grill, fireplace or ring provided for such purpose;

(e) Enter or remain in campgrounds closed during established night periods except as an occupant or while visiting persons occupying the campgrounds for camping purposes;

(f) Enter or use a site or a portion of a site closed to public use; or

(g) Occupy a site with more people than permitted within the developed campsite. Limits on the number of occupants permitted at any site shall be clearly posted near the entrance of the developed campsite or facility in such a manner as to bring it to the reasonable attention of the user.

(h) Move any table, stove, barrier, litter receptacle or other campground equipment.

§ 8365.2-4 Vehicles.

Unless otherwise authorized, no motor vehicle shall be driven within developed recreation sites or areas except on roads or places provided for this purpose.

§ 8365.2-5 Public health, safety and comfort.

On developed recreation sites and areas, unless otherwise authorized, no person shall:

(a) Discharge or use firearms, other weapons, or fireworks; or

(b) Bring an animal, except a Seeing Eye or Hearing Ear dog, to a swimming area.

Garrey E. Carruthers,
Assistant Secretary of the Interior.
July 19, 1983.

[FR Doc. 83-21718 Filed 8-9-83; 8:45 am]

Circular Book 2531

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

43 CFR Part 8360

[Circular No. 2531]

Recreation Management; Prohibited Acts and Penalties

Correction

In FR Doc. 83–21718, beginning on page 36382, in the issue of Wednesday, August 10, 1983, on page 36386, in the first column, in § 8365.1–4, after paragraph (d) and before paragraph (f) the following paragraph (e) should be inserted:

"(e) Assaulting, committing a battery upon, or"

BILLING CODE 1505-01-M

FEDERAL EMERGENCY MANAGEMENT AGENCY

44 CFR Part 64

[Docket No. FEMA 6570]

List of Communities Eligible for the Sale of Insurance Under the National Flood Insurance Program; Louisiana, et al.

AGENCY: Federal Emergency Management Agency.

ACTION: Final rule.

SUMMARY: This rule lists communities participating in the National Flood Insurance Program (NFIP). These communities have applied to the program and have agreed to enact certain flood plain management measures. The communities' participation in the program authorizes the sale of flood insurance to owners of property located in the communities listed.

EFFECTIVE DATES: The date listed in the fifth column of the table.

ADDRESSES: Flood insurance policies for property located in the communities listed can be obtained from any licensed property insurance agent or broker serving the eligible community, or from the National Flood Insurance Program (NFIP) at: P.O. Box 3429, Bethesda, Maryland 20034, Phone: (800) 638–6620.

FOR FURTHER INFORMATION CONTACT: Richard W. Krimm, Assistant Associate Director, Office of Natural and Technological Hazards Programs, (202) 287–0176, 500 C Street, Southwest, Donohoe Building—Room 506, Washington, D.C. 20472.

SUPPLEMENTARY INFORMATION: The National Flood Insurance Program (NFIP), enables property owners to purchase flood insurance at rates made reasonable through a Federal subsidy. In return, communities agree to adopt and administer local flood plain management measures aimed at protecting lives and new construction from future flooding. Since the communities on the attached list have recently entered the NFIP, subsidized flood insurance is now available for property in the community.

In addition, the Director of the Federal Emergency Management Agency has identified the special flood hazard areas in some of these communities by publishing a Flood Hazard Boundary Map. The date of the flood map, if one has been published, is indicated in the fifth column of the table. In the communities listed where a flood map has been published, Section 102 of the Flood Disaster Protection Act of 1973, as amended, requires the purchase of flood insurance as a condition of Federal or federally related financial assistance for acquisition or construction of buildings in the special flood hazard area shown on the map.

The Director finds that delayed effective dates would be contrary to the public interest. The Director also finds that notice and public procedure under 5 U.S.C. 553(b) are impracticable and unnecessary.

The Catalog of Domestic Assistance Number for this program is 83.100 "Flood Insurance."

Pursuant to the provisions of 5 U.S.C. 605(b), the Associate Director, State and Local Programs and Support, to whom authority has been delegated by the Director, Federal Emergency Management Agency, hereby certifies that this rule, if promulgated will not have a significant economic impact on a substantial number of small entities. This rule provides routine legal notice stating the community's status in the NFIP and imposes no new requirements or regulations on participating communities.

List of Subjects in 44 CFR Part 64

Flood insurance, Flood plains.

Section 64.6 is amended by adding in alphabetical sequence new entries to the table.

In each entry, a complete chronology of effective dates appears for each listed community. The entry reads as follows:

§ 64.6 List of Eligible Communities.

State and county	Location	Community No.	Effective dates of authorization/cancellation of sale of flood insurance in community	Special flood hazard area identified
Louisiana: Livingston Parish	Albany, village of	220114B	Oct. 14, 1983, emergency, Oct. 14, 1983, regular	Apr. 12, 1974, Oct. 15, 1976, and Dec. 2, 1980.
New York: Orange	Harriman, village of	360618B	July 21, 1975, emergency, Sept. 1, 1983, regular, Sept. 1, 1983, suspended, Oct. 14, 1983, reinstated.	Mar. 8, 1974, and Nov. 21, 1975.
West Virginia: Wyoming	Pineville, city of	540220B	Jan. 22, 1975, emergency, Sept. 30, 1983, regular, Sept. 30, 1983, suspended, Oct. 14, 1983, reinstated.	July 26, 1974, and June 11, 1976.
Maryland: Cecil	Unincorporated areas	240019A	June 15, 1973, emergency, Apr. 4, 1983, regular, Apr. 4, 1983, suspended, Oct. 14, 1983, reinstated.	July 18, 1975.
Georgia: Fayette	Tyrone, town of	130493	Oct. 19, 1983, emergency	Do.
Wyoming: Goshen	Unincorporated areas	560022A	do	July 19, 1977.
Missouri: Gasconade	do	290601	Oct. 20, 1983, emergency	Do.
Pennsylvania:				
Chester	South Coventry, township of	421490B	Apr. 29, 1975, emergency, July 18, 1983, regular, July 18, 1983, suspended, Oct. 20, 1983, reinstated.	Oct. 18, 1974, and June 11, 1976.
Luzerne	Exeter, township of	420606B	Jan. 19, 1973, emergency, Sept. 15, 1983, regular, Sept. 15, 1983, suspended, Oct. 20, 1983, reinstated.	June 28, 1974, and May 21, 1976.
Illinois: Sangamon	Divernon, village of	170949A	Oct. 25, 1983, emergency	Sept. 8, 1978.
Florida: Sumter	Center Hill, city of	120615	do	Do.
Illinois: Hardin	Elizabethtown, village of	170275B	July 2, 1975, emergency, Sept. 15, 1983, regular, Sept. 15, 1983, suspended, Oct. 25, 1983, reinstated.	Jan. 16, 1974, and Jan. 16, 1976.
Georgia: Oconee	North High Shoals, town of	130368A	Oct. 28, 1983, emergency	Aug. 19, 1977.
Illinois: Lake	Hawthorn Woods, village of	170366A	do	Dec. 3, 1976.

Library

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

43 CFR Part 3570

30 CFR Part 231

[Circular No. 2532]

Operating Procedures for Exploration, Development and Production; Redesignation

Under the authority of Order No. 3087 issued by the Secretary of the Interior on December 3, 1982, as amended on February 7, 1983, which transferred all onshore management functions of the Minerals Management Service, not relating to royalty management, to the Bureau of Land Management, 30 CFR Part 231 is redesignated as Part 3570, Group 3500, Subchapter C, Chapter II of Title 43 of the Code of Federal Regulations and is amended as set forth below.

1. 30 CFR Part 231 is redesignated as 43 CFR Part 3570 as shown in the following redesignation table:

REDESIGNATION TABLE

Old 30 CFR No.	New 43 CFR No.
Sec.	Sec.
	Insert Part Heading—Part 3570—Solid Minerals (Other Than Coal) Exploration and Mining Operations.
	Insert Subpart 3570—Solid Minerals (Other than Coal) Exploration and Mining Operations, General.
231.1(b)	3570.0–1 Purpose.
231.3	3570.0–2 Policy.
231.2	3570.0–5 Definitions.
231.1(a)	3570.0–7 Scope.
231.5	3570.0–8.
231.1(c)	3570.0–9 Cross references.
	Insert Subpart 3571—General Obligations of Lessees and Permittees.
231.4	3571.1.
	Insert Subpart 3572—Maps and Plans.
231.10	3572.1.
231.11	3572.2.
231.12	3572.3.
	Insert Subpart 3573—Bore Holes and Samples
231.20	3573.1.
	Insert Subpart 3574—Mining Methods.
231.31	3574.1.
231.32	3574.2.
231.33	3574.3.
231.34	3574.4.
231.35	3574.5.
	Insert Subpart 3575—Protection Against Mining Hazards.
231.40	3575.1.
231.41	3575.2.
	Insert Subpart 3576—Milling Waste From Mining or Milling.
231.50	3576.1.
231.51	3576.2.
	Insert Subpart 3577—Production Records and Audit.
231.60	3577.1.
231.61	3577.2.
231.62	3577.3.
	Insert Subpart 3578—Inspection, Issuance of Orders and Enforcement of Orders.
231.70	3578.1.
231.71	3578.2.
231.72	3578.3.
231.73	3578.4.
231.74	3578.5.
	Insert Subpart 3579—Late Payment or Underpayment of Charges.
231.80	3579.1.

PART 3570—[AMENDED]

2. Part 3570 is amended by inserting immediately after the part heading a "Note:" to read:

Note.—There are many leases and agreements currently in effect, and which will remain in effect, involving Federal leases which specifically refer to the United States Geological Survey, USGS, Minerals Management Service, MMS, or Conservation Division. These leases and agreements also often specifically refer to various officers such as Supervisor, Conservation Manager, Deputy Conservation Manager, Minerals Manager and Deputy Minerals Manager. In addition, many leases and agreements specifically refer to 30 CFR Part 231 or specific sections thereof. Those references shall now be read in the context of Secretarial Order 3087 and now mean either the Bureau of Land Management or Minerals Management Service, as appropriate.

§ 3570.0–1 [Amended]

3. Section 3570.0–1, formerly 30 CFR 231.1(b), is amended by adding the word "Purpose" as title of the section and by removing the figure "(b)".

§ 3570.0–2 [Amended]

4. Section 3570.0–2, formerly 30 CFR 231.3, is amended by:

A. Amending the title by removing the word "Responsibilities" and replacing it with the word "Policy";

B. Amending paragraph (a) by removing the phrase "Minerals Management Service" and replacing it with the phrase "Bureau of Land Management";

C. Amending paragraph (b) by removing in the two places it appears the phrase "mining supervisor" and replacing it with the phrase "authorized officer," by removing from subparagraph (3) the phrase "Minerals Manager of the Minerals Management Service" and replacing it with the phrase "State Director," by removing from subparagraph (4) the phrase "Minerals Manager" and replacing with the phrase "State Director" and by removing the phrase "Director of the Minerals Management Service" and replacing it with the word "Director" and by removing from subparagraph (7) the phrase "authorized officer" and replacing it with the phrase "responsible officer" and by removing the phrase "mining supervisor" and replacing it with the phrase "authorized officer";

D. Amending paragraph (c) by removing the phrase "mining supervisor" and replacing it with the phrase "authorized officer" and by removing the phrase "authorized officer" and replacing it with the phrase "responsible officer";

E. Amending paragraph (d) by removing the phrase "mining supervisor" and replacing it with the phrase "authorized officer"; and

F. Amending paragraph (e) by removing the phrase "mining supervisor" and replacing it with the phrase "authorized officer."

§ 3570.0–5 [Amended]

5. Section 3570.0–5, formerly 30 CFR 231.2, is amended by:

A. Revising paragraph (b) to read:

"(b) *Director.* Director of the Bureau of Land Management.";

B. Revising paragraph (c) to read:

"(c) *Authorized officer.* Authorized officer is any employee of the Bureau of Land Management who has been delegated the authority to perform the duties described in this part and part 3140 and groups 3500 and 3900 of this title.";

C. Amending paragraph (j) by removing the phrase "Mining Supervisor" and replacing it with the phrase "authorized officer"; and

D. Adding a new paragraph (k) to read:

"(k) *State Director.* State Director is an employee of the Bureau of Land Management who has been designated as the chief administrative officer of one

Published in 48 F.R. 36588, August 12, 1983 - Effective August 12, 1983

of the Bureau's 12 administrative areas designated as 'States'."

§ 3570.0–7 [Amended]

6. Section 3570.0–7, formerly 30 CFR 231.1(a), is amended by inserting the word "Scope" as title of the section, by inserting after the phrase "43 CFR Group 3500" the phrase "and Group 3900" and by removing the citation "25 CFR Parts 171, 172, 173, 174 and 176" and replacing it with the phrase "25 CFR Parts 211, 212, 213 and 215."

§ 3570.0–8 [Amended]

7. Section 3570.0–8, formerly 30 CFR 231.5, is amended by adding to the end thereof the sentence "Proprietary information submitted by the permittee or lessee shall be so marked. Information concerning Indian lands shall not be available to the public unless written authorization is obtained from the tribe who has jurisdiction over the lands."

§ 3570.0–9 [Amended]

8. Section 3570.0–9, formerly 30 CFR 231.1(c), is amended by inserting the phrase "Cross references" as title of the section, by removing the figure "(c)," and by removing the phrase "43 CFR Part 23 Surface Exploration, Mining, and Reclamation—pertaining to acquired lands, or 25 CFR 177" and replacing it with the citation "25 CFR 211."

§ 3571.1 [Amended]

9. Section 3571.1, formerly 30 CFR 231.4, is amended by:

A. Amending paragraph (a) by removing the phrase "mining supervisor" and replacing it with the phrase "authorized officer";

B. Amending paragraph (b) by removing the phrase "mining supervisor" and replacing it with the phrase "authorized officer" and by removing the phrase "Part 290 of this chapter." and replacing it with the phrase "§ 3000.4 of this title.";

C. Amending paragraph (d) by removing in the two places it appears the phrase "mining supervisor" and replacing it with the phrase "authorized officer";

D. Amending paragraph (e) by removing in the two places it appears the phrase "mining supervisor" and replacing it with the phrase "authorized officer"; and

E. Amending paragraph (f) by removing in the two places it appears the phrase "mining supervisor" and replacing it with the phrase "authorized officer."

§ 3572.1 [Amended]

10. Section 3572.1, formerly 30 CFR 231.10, is amended by:

A. Amending paragraph (a) by removing in the two places it appears the phrase "mining supervisor" and replacing it with the phrase "authorized officer";

B. Amending paragraph (b) by removing in the two places it appears the phrase "mining supervisor" and replacing it with the phrase "authorized officer";

C. Amending paragraph (c) by removing the phrase "mining supervisor" and replacing it with the phrase "authorized officer";

D. Amending paragraph (d)(3) by removing the word "regarding" and replacing it with the word "regrading"; and

E. Amending paragraph (e) by removing the phrase "mining supervisor" and replacing it with the phrase "authorized officer."

§ 3572.2 [Amended]

11. Section 3572.2, formerly 30 CFR 231.11, is amended by removing in the four places it appears the phrase "mining supervisor" and replacing it with the phrase "authorized officer."

§ 3572.3 [Amended]

12. Section 3572.3, formerly 30 CFR 231.12, is amended by:

A. Amending paragraph (a) by removing the phrase "mining supervisor" and replacing it with the phrase "authorized officer";

B. Amending paragraph (b) by removing the phrase "mining supervisor" and replacing it with the phrase "authorized officer"; and

C. Amending paragraph (c) by removing the phrase "mining supervisor" and replacing it with the phrase "authorized officer."

§ 3573.1 [Amended]

13. Section 3573.1, formerly 30 CFR 231.20, is amended by:

A. Amending paragraph (a) by removing in the six places it appears the phrase "mining supervisor" and replacing it with the phrase "authorized officer";

B. Amending paragraph (b) by removing in the two places it appears the phrase "mining supervisor" and replacing it with the phrase "authorized officer";

C. Amending paragraph (c) by removing the phrase "mining supervisor" and replacing it with the phrase "authorized officer"; and

D. Amending paragraph (d) by removing in the two places it appears the phrase "mining supervisor" and replacing it with the phrase "authorized officer."

§ 3574.4 [Amended]

14. Section 3574.1, formerly 30 CFR 231.31, is amended by:

A. Amending paragraph (a) by removing the phrase "mining supervisor" and replacing it with the phrase "authorized officer"; and

B. Amending paragraph (b) by removing the phrase "mining supervisor" and replacing it with the phrase "authorized officer."

§ 3574.2 [Amended]

15. Section 3574.2, formerly 30 CFR 231.32, is amended by removing in the two places it appears the phrase "mining supervisor" and replacing it with the phrase "authorized officer."

§ 3574.3 [Amended]

16. Section 3574.3(a), formerly 30 CFR 231.33(a), is amended by removing in the two places it appears the phrase "mining supervisor" and replacing it with the phrase "authorized officer."

§ 3574.4 [Amended]

17. Section 3574.4, formerly 30 CFR 231.34, is amended by:

A. Amending paragraph (b) by removing the phrase "mining supervisor" and replacing it with the phrase "authorized officer";

B. Amending paragraph (c) by removing the phrase "mining supervisor" and replacing it with the phrase "authorized officer"; and

C. Amending paragraph (d) by removing the phrase "mining supervisor" and replacing it with the phrase "authorized officer."

§ 3574.5 [Amended]

18. Section 3574.5, formerly 30 CFR 231.35, is amended by removing in the two places it appears the phrase "mining supervisor" and replacing it with the phrase "authorized officer."

§ 3575.1 [Amended]

19. Section 3575.1, formerly 30 CFR 231.40, is amended by:

A. Amending paragraph (a) by removing the phrase "mining supervisor" and replacing it with the phrase "authorized officer"; and

B. Amending paragraph (b) by removing the phrase "mining supervisor" and replacing it with the phrase "authorized officer."

§ 3575.2 [Amended]

20. Section 3575.2, formerly 30 CFR 231.41, is amended by removing the phrase "mining supervisor" and replacing it with the phrase "authorized officer."

§ 3576.2 [Amended]

21. Section 3576.2, formerly 30 CFR 231.51, is amended by removing the phrase "mining supervisor" and replacing it with the phrase "authorized officer."

§ 3577.2 [Amended]

22. Section 3577.2, formerly 30 CFR 231.61, is amended by:

A. Amending paragraph (a) by removing the phrase "Mining Supervisor" and replacing it with the phrase "authorized officer", by removing from subparagraph (2) the phrase "Mining Supervisor" and replacing it with the phrase "authorized officer" by and by removing from subparagraph (a)(iii) the phrase "Mining Supervisor" and replacing it with the phrase "authorized officer"; and

B. Amending paragraph (b) by removing the phrase "Mining Supervisor" and replacing it with the phrase "authorized officer."

§ 3577.3 [Amended]

23. Section 3577.3, formerly 30 CFR 231.62, is amended by removing in the two places it appears the phrase "mining supervisor" and replacing it with the phrase "authorized officer."

§ 3578.1 [Amended]

24. Section 3578.1, formerly 30 CFR 231.70, is amended by removing the phrase "mining supervisor" and replacing it with the phrase "authorized officer."

§ 3578.2 [Amended]

25. Section 3578.2, formerly 30 CFR 231.71, is amended by removing in the two places it appears the phrase "mining supervisor" and replacing it with the phrase "authorized officer."

§ 3578.4 [Amended]

26. Section 3578.4, formerly 30 CFR 231.73, is amended by:

A. Amending paragraph (a) by removing in the four places it appears the phrase "mining supervisor" and replacing it with the phrase "authorized officer."

B. Amending paragraph (b) by removing in the two places it appears the phrase "mining supervisor" and replacing it with the phrase "authorized officer"; and

C. Amending paragraph (c) by removing in the three places it appears the phrase "mining supervisor" and replacing it with the phrase "authorized officer."

§ 3578.5 [Amended]

27. Section 3578.5, formerly 30 CFR 231.74, is amended by removing the citation "Part 290 of this chapter" and replacing it with the citation "Part 4 of this title."

Dated: August 5, 1983.

J. Steven Griles,

Acting Assistant Secretary of the Interior.

[FR Doc. 83-22019 Filed 8-11-83; 8:45 am]

Cure 2537

A. Amending section 14 of the agreement by removing from the last paragraph of the section the citation "30 CFR Part 221" and replacing it with the citation "30 CFR Group 200".

B. Amending the guidelines at the end of the agreement by:

i. Amending guideline 2 by removing the citation "§§ 226.13 and 226.14." and replacing it with the citation "§§ 3186.1–1 and 3186.1–2 of this title.";

ii. Amending guideline 12 by removing the phrase "(See 30 CFR 226.7(a))." and replacing it with the phrase "(See § 3181.4(a) of this title).";

iii. Amending guideline 13 by removing the citation "30 CFR 226.7(b)." and replacing it with the citation "§ 3181.4(b) of this title."; and

iv. Amending the Certification—Determination by removing from the first paragraph the citation "30 CFR Part 226" and replacing it with the citation "43 CFR Part 3180".

[FR Doc. 83–22090 Filed 8–11–83; 8:45 am]

BILLING CODE 4310–84–M

43 CFR Part 3570

30 CFR Part 231

[Circular No. 2532]

Operating Procedures for Exploration, Development and Production; Redesignation

AGENCY: Bureau of Land Management, Interior.

ACTION: Final Rulemaking.

SUMMARY: On December 3, 1982, the Secretary of the Interior issued Order No. 3087, which was amended on February 7, 1983, transferring all onshore management functions of the Minerals Management Service, not relating to royalty management, to the Bureau of Land Management. Notice of this transfer of management functions was published in the Federal Register of March 2, 1983 (48 FR 8982). In accordance with that order and the above notice, the regulations in 30 CFR Part 231 are being transferred to 43 CFR Part 3570. This notice redesignates the appropriate sections of 30 CFR Part 231 as 43 CFR Part 3570 and makes necessary administrative amendments to bring the redesignated sections into conformance with the language of Title 43 of the Code of Federal Regulations.

EFFECTIVE DATE: August 12, 1983.

ADDRESS: Any suggestions or inquiries should be sent to: Director (660) Bureau of Land Management 1800 C Street NW Washington, D.C. 20240.

FOR FURTHER INFORMATION CONTACT: Paul Sternbergy (202) 860–7506.

The principal author of this final rulemaking is Paul J. Buff, Division of Solid Mineral Operations, Bureau of Land Management, assisted by the staff of the Office of Legislation and Regulatory Management, Bureau of Land Management.

Because this final rulemaking is an administrative action reflecting actions that have already occurred and that have no additional impacts on leasable mineral exploration and mining operations, it has been determined that no action needs to be taken with regard to a determination under either the provisions of section 102(2)(C) of the National Environmental Policy Act (42 U.S.C. 4332(2)(C)) or the provisions of Executive Order 12291.

There are no additional information collection requirements contained in this final rulemaking.

This final rulemaking is administrative and has no additional impacts on the public. Further, it reflects actions that have already occurred. It will, therefore, be effective upon publication.

List of Subjects in 43 CFR Part 3570

Environmental protection, Government contracts, Mineral royalties, Mines, Public lands—mineral resources, Reporting requirements.

Under the authority of Order No. 3087 issued by the Secretary of the Interior on December 3, 1982, as amended on February 7, 1983, which transferred all onshore management functions of the Minerals Management Service, not relating to royalty management, to the Bureau of Land Management, 30 CFR Part 231 is redesignated as Part 3570, Group 3500, Subchapter C, Chapter II of Title 43 of the Code of Federal Regulations and is amended as set forth below.

Dated: August 5, 1983.

J. Steven Griles,

Acting Assistant Secretary of the Interior.

1. 30 CFR Part 231 is redesignated as 43 CFR Part 3570 as shown in the following redesignation table:

REDESIGNATION TABLE

Old 30 CFR No.	New 43 CFR No.
Sec.	Sec.
	Insert Part Heading—Part 3570—Solid Minerals (Other Than Coal) Exploration and Mining Operations.
	Insert Subpart 3570—Solid Minerals (Other than Coal) Exploration and Mining Operations, General.
231.1(b)	3570.0–1 Purpose.
231.3	3570.0–2 Policy.
231.2	3570.0–5 Definitions.
231.1(a)	3570.0–7 Scope.
231.5	3570.0–8.
231.1(c)	3570.0–9 Cross references.
	Insert Subpart 3571—General Obligations of Lessees and Permittees.
231.4	3571.1.
	Insert Subpart 3572—Maps and Plans.
231.10	3572.1.
231.11	3572.2.
231.12	3572.3.
	Insert Subpart 3573—Bore Holes and Samples.
231.20	3573.1.
	Insert Subpart 3574—Mining Methods.
231.31	3574.1.
231.32	3574.2.
231.33	3574.3.
231.34	3574.4.
231.35	3574.5.
	Insert Subpart 3575—Protection Against Mining Hazards.
231.40	3575.1.
231.41	3575.2.
	Insert Subpart 3576—Milling Waste From Mining or Milling.
231.50	3576.1.
231.51	3576.2.
	Insert Subpart 3577—Production Records and Audit.
231.60	3577.1.
231.61	3577.2.
231.62	3577.3.
	Insert Subpart 3578—Inspection, Issuance of Orders and Enforcement of Orders.
231.70	3578.1.
231.71	3578.2.
231.72	3578.3.
231.73	3578.4.
231.74	3578.5.
	Insert Subpart 3579—Late Payment or Underpayment of Charges.
231.80	3579.1.

PART 3570—[AMENDED]

2. Part 3570 is amended by inserting immediately after the part heading a "Note:" to read:

Note.—There are many leases and agreements currently in effect, and which will remain in effect, involving Federal leases which specifically refer to the United States Geological Survey, USGS, Minerals Management Service, MMS, or Conservation Division. These leases and agreements also often specifically refer to various officers such as Supervisor, Conservation Manager, Deputy Conservation Manager, Minerals Manager and Deputy Minerals Manager. In addition, many leases and agreements specifically refer to 30 CFR Part 231 or specific sections thereof. Those references shall now be read in the context of Secretarial Order 3087 and now mean either the Bureau of Land Management or Minerals Management Service, as appropriate.

§ 3570.0–1 [Amended]

3. Section 3570.0–1, formerly 30 CFR 231.1(b), is amended by adding the word "Purpose" as title of the section and by removing the figure "(b)".

§ 3570.0–2 [Amended]

4. Section 3570.0–2, formerly 30 CFR 231.3, is amended by:

A. Amending the title by removing the word "Responsibilities" and replacing it with the word "Policy";

B. Amending paragraph (a) by removing the phrase "Minerals Management Service" and replacing it with the phrase "Bureau of Land Management";

C. Amending paragraph (b) by removing in the two places it appears the phrase "mining supervisor" and replacing it with the phrase "authorized officer," by removing from subparagraph (3) the phrase "Minerals Manager of the Minerals Management Service" and replacing it with the phrase "State Director," by removing from subparagraph (4) the phrase "Minerals Manager" and replacing with the phrase "State Director" and by removing the phrase "Director of the Minerals Management Service" and replacing it with the word "Director" and by removing from subparagraph (7) the phrase "authorized officer" and replacing it with the phrase "responsible officer" and by removing the phrase "mining supervisor" and replacing it with the phrase "authorized officer";

D. Amending paragraph (c) by removing the phrase "mining supervisor" and replacing it with the phrase "authorized officer" and by removing the phrase "authorized officer" and replacing it with the phrase "responsible officer";

E. Amending paragraph (d) by removing the phrase "mining supervisor" and replacing it with the phrase "authorized officer"; and

F. Amending paragraph (e) by removing the phrase "mining supervisor" and replacing it with the phrase "authorized officer."

§ 3570.0–5 [Amended]

5. Section 3570.0–5, formerly 30 CFR 231.2, is amended by:

A. Revising paragraph (b) to read:

"(b) *Director.* Director of the Bureau of Land Management.";

B. Revising paragraph (c) to read:

"(c) *Authorized officer.* Authorized officer is any employee of the Bureau of Land Management who has been delegated the authority to perform the duties described in this part and part 3140 and groups 3500 and 3900 of this title.";

C. Amending paragraph (j) by removing the phrase "Mining Supervisor" and replacing it with the phrase "authorized officer"; and

D. Adding a new paragraph (k) to read:

"(k) *State Director.* State Director is an employee of the Bureau of Land Management who has been designated as the chief administrative officer of one of the Bureau's 12 administrative areas designated as 'States'."

§ 3570.0–7 [Amended]

6. Section 3570.0–7, formerly 30 CFR 231.1(a), is amended by inserting the word "Scope" as title of the section, by inserting after the phrase "43 CFR Group 3500" the phrase "and Group 3900" and by removing the citation "25 CFR Parts 171, 172, 173, 174 and 176" and replacing it with the phrase "25 CFR Parts 211, 212, 213 and 215."

§ 3570.0–8 [Amended]

7. Section 3570.0–8, formerly 30 CFR 231.5, is amended by adding to the end thereof the sentence "Proprietary information submitted by the permittee or lessee shall be so marked. Information concerning Indian lands shall not be available to the public unless written authorization is obtained from the tribe who has jurisdiction over the lands."

§ 3570.0–9 [Amended]

8. Section 3570.0–9, formerly 30 CFR 231.1(c), is amended by inserting the phrase "Cross references" as title of the section, by removing the figure "(c)," and by removing the phrase "43 CFR Part 23 Surface Exploration, Mining, and Reclamation—pertaining to acquired lands, or 25 CFR 177" and replacing it with the citation "25 CFR 211."

§ 3571.1 [Amended]

9. Section 3571.1, formerly 30 CFR 231.4, is amended by:

A. Amending paragraph (a) by removing the phrase "mining supervisor" and replacing it with the phrase "authorized officer";

B. Amending paragraph (b) by removing the phrase "mining supervisor" and replacing it with the phrase "authorized officer" and by removing the phrase "Part 290 of this chapter." and replacing it with the phrase "§ 3000.4 of this title.";

C. Amending paragraph (d) by removing in the two places it appears the phrase "mining supervisor" and replacing it with the phrase "authorized officer";

D. Amending paragraph (e) by removing in the two places it appears the phrase "mining supervisor" and replacing it with the phrase "authorized officer"; and

E. Amending paragraph (f) by removing in the two places it appears the phrase "mining supervisor" and replacing it with the phrase "authorized officer."

§ 3572.1 [Amended]

10. Section 3572.1, formerly 30 CFR 231.10, is amended by:

A. Amending paragraph (a) by removing in the two places it appears the phrase "mining supervisor" and replacing it with the phrase "authorized officer";

B. Amending paragraph (b) by removing in the two places it appears the phrase "mining supervisor" and replacing it with the phrase "authorized officer";

C. Amending paragraph (c) by removing the phrase "mining supervisor" and replacing it with the phrase "authorized officer";

D. Amending paragraph (d)(3) by removing the word "regarding" and replacing it with the word "regrading"; and

E. Amending paragraph (e) by removing the phrase "mining supervisor" and replacing it with the phrase "authorized officer."

§ 3572.2 [Amended]

11. Section 3572.2, formerly 30 CFR 231.11, is amended by removing in the four places it appears the phrase "mining supervisor" and replacing it with the phrase "authorized officer."

§ 3572.3 [Amended]

12. Section 3572.3, formerly 30 CFR 231.12, is amended by:

A. Amending paragraph (a) by removing the phrase "mining supervisor" and replacing it with the phrase "authorized officer";

B. Amending paragraph (b) by removing the phrase "mining supervisor" and replacing it with the phrase "authorized officer"; and

C. Amending paragraph (c) by removing the phrase "mining supervisor" and replacing it with the phrase "authorized officer."

§ 3573.1 [Amended]

13. Section 3573.1, formerly 30 CFR 231.20, is amended by:

A. Amending paragraph (a) by removing in the six places it appears the phrase "mining supervisor" and replacing it with the phrase "authorized officer";

B. Amending paragraph (b) by removing in the two places it appears the phrase "mining supervisor" and replacing it with the phrase "authorized officer";

C. Amending paragraph (c) by removing the phrase "mining supervisor" and replacing it with the phrase "authorized officer"; and

D. Amending paragraph (d) by removing in the two places it appears the phrase "mining supervisor" and replacing it with the phrase "authorized officer."

§ 3574.4 [Amended]

14. Section 3574.1, formerly 30 CFR 231.31, is amended by:

A. Amending paragraph (a) by removing the phrase "mining supervisor" and replacing it with the phrase "authorized officer"; and

B. Amending paragraph (b) by removing the phrase "mining supervisor" and replacing it with the phrase "authorized officer."

§ 3574.2 [Amended]

15. Section 3574.2, formerly 30 CFR 231.32, is amended by removing in the two places it appears the phrase "mining supervisor" and replacing it with the phrase "authorized officer."

§ 3574.3 [Amended]

16. Section 3574.3(a), formerly 30 CFR 231.33(a), is amended by removing in the two places it appears the phrase "mining supervisor" and replacing it with the phrase "authorized officer."

§ 3574.4 [Amended]

17. Section 3574.4, formerly 30 CFR 231.34, is amended by:

A. Amending paragraph (b) by removing the phrase "mining supervisor" and replacing it with the phrase "authorized officer";

B. Amending paragraph (c) by removing the phrase "mining supervisor" and replacing it with the phrase "authorized officer"; and

C. Amending paragraph (d) by removing the phrase "mining supervisor" and replacing it with the phrase "authorized officer."

§ 3574.5 [Amended]

18. Section 3574.5, formerly 30 CFR 231.35, is amended by removing in the two places it appears the phrase "mining supervisor" and replacing it with the phrase "authorized officer."

§ 3575.1 [Amended]

19. Section 3575.1, formerly 30 CFR 231.40, is amended by:

A. Amending paragraph (a) by removing the phrase "mining supervisor" and replacing it with the phrase "authorized officer"; and

B. Amending paragraph (b) by removing the phrase "mining supervisor" and replacing it with the phrase "authorized officer."

§ 3575.2 [Amended]

20. Section 3575.2, formerly 30 CFR 231.41, is amended by removing the phrase "mining supervisor" and replacing it with the phrase "authorized officer."

§ 3576.2 [Amended]

21. Section 3576.2, formerly 30 CFR 231.51, is amended by removing the phrase "mining supervisor" and replacing it with the phrase "authorized officer."

§ 3577.2 [Amended]

22. Section 3577.2, formerly 30 CFR 231.61, is amended by:

A. Amending paragraph (a) by removing the phrase "Mining Supervisor" and replacing it with the phrase "authorized officer", by removing from subparagraph (2) the phrase "Mining Supervisor" and replacing it with the phrase "authorized officer" by and by removing from subparagraph (a)(iii) the phrase "Mining Supervisor" and replacing it with the phrase "authorized officer"; and

B. Amending paragraph (b) by removing the phrase "Mining Supervisor" and replacing it with the phrase "authorized officer."

§ 3577.3 [Amended]

23. Section 3577.3, formerly 30 CFR 231.62, is amended by removing in the two places it appears the phrase "mining supervisor" and replacing it with the phrase "authorized officer."

§ 3578.1 [Amended]

24. Section 3578.1, formerly 30 CFR 231.70, is amended by removing the phrase "mining supervisor" and replacing it with the phrase "authorized officer."

§ 3578.2 [Amended]

25. Section 3578.2, formerly 30 CFR 231.71, is amended by removing in the two places it appears the phrase "mining supervisor" and replacing it with the phrase "authorized officer."

§ 3578.4 [Amended]

26. Section 3578.4, formerly 30 CFR 231.73, is amended by:

A. Amending paragraph (a) by removing in the four places it appears the phrase "mining supervisor" and replacing it with the phrase "authorized officer."

B. Amending paragraph (b) by removing in the two places it appears the phrase "mining supervisor" and replacing it with the phrase "authorized officer"; and

C. Amending paragraph (c) by removing in the three places it appears the phrase "mining supervisor" and replacing it with the phrase "authorized officer."

§ 3578.5 [Amended]

27. Section 3578.5, formerly 30 CFR 231.74, is amended by removing the citation "Part 290 of this chapter" and replacing it with the citation "Part 4 of this title."

[FR Doc. 83-22019 Filed 8-11-83; 8:45 am]
BILLING CODE 4310-84-M

FEDERAL EMERGENCY MANAGEMENT AGENCY

44 CFR Part 64

Suspension of Community Eligibility Under the National Flood Insurance Program; New Jersey et al.

[Docket No. FEMA 6552]

AGENCY: Federal Emergency Management Agency (FEMA).

ACTION: Final rule.

SUMMARY: This rule lists communities, where the sale of flood insurance has been authorized under the National Flood Insurance Program (NFIP), that are suspended on the effective dates listed within this rule because of noncompliance with the flood plain management requirements of the program. If FEMA receives documentation that the community has adopted the required flood plain management measures prior to the effective suspension date given in this rule, the suspension will be withdrawn by publication in the Federal Register.

EFFECTIVE DATES: The third date ("Susp.") listed in the fourth column.

FOR FURTHER INFORMATION CONTACT: Mr. Richard E. Sanderson, Chief, Natural Hazards Division (202) 287-0270, 500 C Street Southwest, Donohoe Building, Room 505, Washington, DC 20472.

SUPPLEMENTARY INFORMATION: The National Flood Insurance Program (NFIP), enables property owners to purchase flood insurance at rates made reasonable through a Federal subsidy. In return, communities agree to adopt and administer local flood plain management measures aimed at protecting lives and new construction from future flooding. Section 1315 of the National Flood Insurance Act of 1968, as amended (42 U.S.C. 4022) prohibits flood insurance coverage as authorized under the National Flood Insurance Program (42 U.S.C. 4001-4128) unless an appropriate public body shall have adopted adequate flood plain management measures with effective enforcement measures. The communities listed in this notice no longer meet that statutory requirement for compliance with program regulations (44 CFR Part 59 et seq.). Accordingly, the communities are suspended on the effective date in the fifth column, so that

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

Minerals Management Service

43 CFR Parts 3160 and 3180

30 CFR Parts 221 and 226

[Circular No. 2533]

Onshore Oil and Gas, General; Redesignation of Regulations

Under the authority of Secretarial Order 3087, December 3, 1982, as amended on February 7, 1983 (48 FR 8983), and the statutory authorities enumerated at each part, Group 3100, Subchapter C, Chapter II of Title 43 of the Code of Federal Regulations is amended as set forth below.

I.

1. 30 CFR Part 221 is redesignated as 43 CFR Part 3160 as shown in the following redesignation table:

Redesignation Table

Old 30 CFR Part 221	New 43 CFR Part 3160
	Insert new part title—Part 3160—Onshore Oil and Gas Operations.
	Insert new Subpart 3160—Onshore Oil and Gas Operations—General.
221.1 (First sentence).	3160.0–1 Purpose.
221.1 (Second sentence).	3160.0–4 Objectives.
221.1 (Third sentence).	3160.0–2 Policy.
	Insert new § 3160.0–3 Authority.
221.2	3160.0–5.
221.2–1	Inserted as a note immediately after Part title.
221.3	3160.0–7.
221.4–221.9	Remove.
	Insert new Subpart 3161—Jurisdiction and Responsibility.
221.10	3161.1.
221.11	3161.2.
221.12	Remove.
221.13	Remove.
221.14	3164.1.
221.15	3164.2.
221.16–221.19	Remove.
	Insert Subpart 3162—Requirements for Lessees and Operators.
221.20	3162.1.
221.21	3162.3.
221.22	3162.2.
221.23	3162.3–1.
221.24	3162.6.
221.25	3162.5–2.
221.26	3162.4–2.
221.27	3162.3–2.
221.28	3162.3–3.
221.29	3162.3–4.
	Insert new § 3162.5—Environment and safety.
221.30	3162.5–1.
221.31	3162.5–3.
	Insert new § 3162.4—Records and reports.
221.32	3162.4–1.
221.33	3162.8.
	Insert new § 3162.7—Measurement, disposition and protection of production.
221.34	3162.7–2.
221.35	3162.7–3.
221.36	3162.7–1.
221.37	3162.7–4.
221.38–221.49	Remove.
	Insert new Subpart 3163—Non-Compliance and Assessments.
221.50	3163.1.
221.51	3163.2.
221.52	3163.3.
221.53	3163.4.
221.54	3163.5.
221.55–221.59	Remove.
	Insert new Subpart 3164—Special Provisions.
221.60	3164.3.
221.61	3164.4.
221.62–221.69	Remove.
	Insert new Subpart 3165—Relief, Conflicts and Appeals.
221.70	3165.1.
221.71	3165.2.
221.72	3165.3.
221.73	3165.4.
221.74–221.99	Remove.
221.104	3165.1–1.
221.117	3162.4–3.

2. Section 3160.0–1, formerly the first sentence of 30 CFR 221.1, is revised to read:

§ 3160.0–1 Purpose.

The regulations in this part govern operations associated with the exploration, development and production of oil and gas deposits from leases issued or approved by the United States, restricted Indian land leases and those under the jurisdiction of the Secretary of the Interior by law or administrative arrangement, including the National Petroleum Reserve—Alaska.

3. Section 3160.0–4, formerly the second sentence of 30 CFR 221.1, is revised to read:

§ 3160.0–4 Objectives.

The objective of these regulations is to promote the orderly and efficient exploration, development and production of oil and gas.

4. A new § 3160.0–3 is added to read:

§ 3160.0–3 Authority.

The Mineral Leasing Act, as amended and supplemented (30 U.S.C. 181 et seq.), the Act of May 21, 1930 (30 U.S.C. 301–306), the Mineral Leasing Act for Acquired Lands, as amended (30 U.S.C. 351–359), the Act of March 3, 1909, as amended (25 U.S.C. 396), the Act of May 11, 1938, as amended (25 U.S.C. 396a–396q), the Act of February 28, 1891, as amended (25 U.S.C. 397), the Act of May 29, 1924 (25 U.S.C. 398), the Act of March 3, 1927 (25 U.S.C. 398a–398e), the Act of June 30, 1919, as amended (25 U.S.C. 399), R.S. § 441 (43 U.S.C. 1457), the Attorney General's Opinion of April 2, 1941 (40 Op. Atty. Gen. 41), the Federal Property and Administrative Services Act of 1949, as amended (40 U.S.C. 471 et seq.), the National Environmental Policy Act of 1969, as amended (42 U.S.C. 4321 et seq.), the Act of December 12, 1980 (94 Stat. 2964), the Combined Hydrocarbon Leasing Act of 1981 (95 Stat. 1070), the Federal Oil and Gas Royalty Management Act of 1982 (30 U.S.C. 1701), the Indian Mineral Development Act of 1982 (25 U.S.C. 2102), and Order Number 3087, dated December 3, 1982, as amended on February 7, 1983 (48 FR 8983) under which the Secretary consolidated and transferred the onshore minerals management functions of the Department, except mineral revenue functions and the responsibility for leasing of restricted Indian lands, to the Bureau of Land Management.

5. Section 3160.0–2, formerly the third sentence of 30 CFR 221.1, is revised to read:

Published in 48 F.R. 36582, August 12, 1983 - Effective August 12, 1983.

§ 3160.0–2 Policy.

The regulations in this part are administered under the direction of the Director of the Bureau of Land Management; except that as to lands within naval petroleum reserves, they shall be administered under such official as the Secretary of Energy shall designate.

§ 3160.0–5 [Amended]

6. Section 3160.0–5, formerly 30 CFR 221.2, is amended by:

A. Removing the term *"Associate Director for Royalty Management"* in its entirety;

B. Removing the term *"Communitization Agreement"* in its entirety;

C. Removing the term *"Deputy Minerals Manager"* in its entirety;

D. Removing the term *"Designated Operator"* in its entirety;

E. Revising the term *"Director"* to read:

"Director. The Director of the Bureau of Land Management.";

F. Removing the term *"District Supervisor"* in its entirety;

G. Removing the term *"Gas"* in its entirety;

H. Removing the term *"Gas Storage Agreement"* in its entirety;

I. Removing the term *"Minerals Manager"* in its entirety;

J. Removing the term *"National Petroleum Reserve in Alaska"* in its entirety;

K. Removing the term *"Oil"* in its entirety; and

L. Removing the term *"Secretary"* in its entirety.

7. Part 3160 is amended by:

A. Adding immediately after the title to Part 3160 the language of 30 CFR 221.2–1, after removal of the section number and title, as a "NOTE:", and after removing the citation "Part 221" and replacing it with the citation "Part 3160";

B. Removing the table entitled "Royalty Accounting Forms" in the note, formerly 30 CFR 221.2–1, and the paragraph immediately following the table;

C. Amending the first sentence of the paragraph in the note, formerly 30 CFR 221.2–1, entitled "Other Reporting Requirements" by removing the citation "§§ 221.21, 221.23, 221.24, 221.25, 221.26, 221.27, 221.28, 221.29, 221.30, 221.32, 221.34, 221.35, 221.36, 221.37, 221.60, 221.70, and 221.72" and replacing it with the citation "§§ 3162.3, 3162.3–1, 3162.3–2, 3162.3–3, 3162.3–4, 3162.4–1, 3162.4–2, 3162.5–1, 3162.5–2, 3162.5–3, 3162.6, 3162.7–1, 3162.7–2, 3162.7–3, 3162.7–4, 3164.3, 3165.1 and 3165.3"; and

D. Adding a second note immediately after the first note to read:

Note.—There are many leases and agreements currently in effect, and which will remain in effect, involving both Federal and Indian oil and gas leases which specifically refer to the United States Geological Survey, USGS, Minerals Management Service, MMS, or Conservation Division. These leases and agreements also often specifically refer to various officers such as Supervisor, Conservation Manager, Deputy Conservation Manager, Minerals Manager and Deputy Minerals Manager. In addition, many leases and agreements specifically refer to 30 CFR Part 221 or specific sections thereof, which now means 43 CFR Part 3160. Those references shall now be read in the context of Secretarial Order 3087 and now mean either the Bureau of Land Management or Minerals Management Service, as appropriate.

8. Section 3160.0–7, formerly 30 CFR 221.3, is revised to read:

§ 3160.0–7 Cross references.

25 CFR Parts 221, 212, 213, and 227
30 CFR Group 200
40 CFR Chapter V
43 CFR Parts 2, 4, and 1820 and Groups 3000, 3100 and 3500

§ 3161.1 [Amended]

9. Section 3161.1, formerly 30 CFR 221.10, is amended by removing the phrase "the jurisdiction of the DMM for the Region in which the leased lands are located." and replacing it with the phrase "the direction of the authorized officer having jurisdiction of the leased lands."

10. Section 3161.2, formerly 30 CFR 221.11 and 221.12, is revised to read:

§ 3161.2 Responsibility of the authorized officer.

The authorized officer is authorized and directed to approve unitization, communitization, gas storage and other contractual agreements for Federal lands; to assess compensatory royalty; to approve suspensions of operations or production, or both; to issue NTL's; to approve and monitor other operator proposals for drilling, development or production of oil and gas; to perform technical and procedural reviews; to assess monetary penalties or liquidated damages; to provide technical information and advice relative to oil and gas development and operations on Federal and Indian lands; to enter into cooperative agreements with States, Federal agencies and Indian tribes relative to oil and gas development and operations; to approve, inspect and regulate the operations that are subject to the regulations in this part; to require compliance with lease terms, with the regulations in this title and all other applicable regulations promulgated under the cited laws; and to require that all operations be conducted in a manner which protects other natural resources and the environmental quality, protects life and property and results in the maximum ultimate recovery of oil and gas with minimum waste and with minimum adverse effect on the ultimate recovery of other mineral resources. The authorized officer may issue written or oral orders to govern specific lease operations. Any such oral orders shall be confirmed in writing by the authorized officer within 10 working days from issuance thereof. Before approving operations on leasehold, the authorized officer shall determine that the lease is in effect, that the operator is authorized to conduct such operations, that acceptable bond coverage has been provided and that the proposed plan of operations is sound both from a technical and environmental standpoint.

§ 3162.1 [Amended]

11. Section 3162.1, formerly 30 CFR 221.20, is amended by removing the word "Supervisor" and replacing it with the phrase "authorized officer".

§ 3162.3 [Amended]

12. Section 3162.3, formerly 30 CFR 221.21, is amended by:

A. Removing from paragraph (a) in the three places it appears the word "Supervisor" and replacing it with the phrase "authorized officer"; and

B. Removing from paragraph (b) the word "Supervisor" and replacing it with the phrase "authorized officer".

§ 3162.2 [Amended]

13. Section 3162.2, formerly 30 CFR 221.22, is amended by:

A. Amending paragraph (a) by removing from the second sentence the word "DMM" and replacing it with the phrase "authorized officer" and by removing from the fourth sentence the word "DMM's" and replacing it with the phrase "authorized officer's"; and

B. Amending paragraphs (b) and (c) by removing from where it appears the word "Supervisor" and replacing it with the phrase "authorized officer".

§ 3162.3-1 [Amended]

14. Section 3162.3–1, formerly 30 CFR 221.23, is amended by:

A. Amending paragraph (a) by removing the phrase "(see § 221.30)" and replacing it with the phrase "(see § 3162.5–1 of this title)", by removing the word "Supervisor" and replacing it with the phrase "authorized officer" and by removing in the three places it appears the word "DMM" and replacing it with the phrase "authorized officer";

B. Amending paragraph (c) by removing the word "Supervisor" and replacing it with the phrase "authorized officer" and by removing the word "Supervisor's" and replacing it with the phrase "authorized officer's";

C. Amending paragraph (e) by removing in the two places it appears the word "Supervisor" and replacing it with the phrase "authorized officer"; and

D. Amending paragraph (f) by removing the word "Supervisor" and replacing it with the phrase "authorized officer".

§ 3162.6 [Amended]

15. Section 3162.6, formerly 30 CFR 221.24, is amended by removing from paragraphs (a) and (b) where it appears the word "Supervisor" and replacing it with the phrase "authorized officer".

§ 3162.5-2 [Amended]

16. Section 3162.5–2, formerly 30 CFR 221.25, is amended by:

A. Amending paragraph (b) by removing in the two places it appears the word "Supervisor" and replacing it with the phrase "authorized officer"; and

B. Amending paragraph (d) by removing the word "Supervisor" and replacing it with the phrase "authorized officer".

§ 3162.4-2 [Amended]

17. Section 3162.4–2, formerly 30 CFR 221.26, is amended by removing from paragraphs (a) and (c) where it appears the word "Supervisor" and replacing it with the phrase "authorized officer".

§ 3162.3-2 [Amended]

18. Section 3162.3–2(a), formerly 30 CFR 221.27, is amended by removing in the two places it appears the word "Supervisor" and replacing it with the phrase "authorized officer" and by removing the citation "§ 221.23." and replacing it with the citation "§ 3162.3–1 of this title."

§ 3162.3-3 [Amended]

19. Section 3162.3–3, formerly 30 CFR 221.28, is amended by removing the citation "§ 221.23 of § 221.27" and replacing it with the citation "§ 3162.3–1 of § 3162.3–2 of this title" and by removing the word "Supervisor" and replacing it with the phrase "authorized officer".

§ 3162.3-4 [Amended]

20. Section 3162.3–4, formerly 30 CFR 221.29, is amended by:

A. Amending paragraph (a) by removing in the three places it appears the word "Supervisor" and replacing it with the phrase "authorized officer";

B. Amending paragraph (b) by removing the word "Supervisor" and replacing it with the phrase "authorized officer"; and

C. Amending paragraph (c) by removing in the four places it appears the word "Supervisor" and replacing it with the phrase "authorized officer".

§ 3162.5-1 [Amended]

21. Section 3162.5–1, formerly 30 CFR 221.30, is amended by:

A. Amending paragraph (a) by removing in the two places it appears the word "Supervisor" and replacing it with the phrase "authorized officer" and by removing the citation "§ 221.23" and replacing it with the citation "§ 3162.3–1 of this title";

B. Amending paragraph (b) by removing in the two places it appears the word "Supervisor" and replacing it with the phrase "authorized officer"; and

C. Amending paragraphs (c) and (d) by removing from where it appears the word "Supervisor" and replacing it with the phrase "authorized officer".

§ 3162.5-3 [Amended]

22. Section 3162.5–3, formerly 30 CFR 221.31, is amended by removing the word "Supervisor" and replacing it with the phrase "authorized officer".

§ 3162.4-1 [Amended]

23. Section 3162.4–1, formerly 30 CFR 221.32, is amended by:

A. Amending paragraph (b) by removing the citation "§ 221.2–1" and replacing it with the citation "the "NOTE" at the beginning of this title." and by removing from the two places it appears the word "Supervisor" and replacing it with the phrase "authorized officer"; and

B. Amending paragraph (c) by removing the word "Supervisor" and replacing it with the phrase "authorized officer".

§ 3162.8 [Amended]

24. Section 3162.8(d), formerly 30 CFR 221.33(d), is amended by removing the word "Supervisor" and replacing it with the phrase "authorized officer".

§ 3162.7-2 [Amended]

25. Section 3162.7–2, formerly 30 CFR 221.34, is amended by:

A. Amending paragraph (a) by removing the word "DMM" and replacing it with the phrase "authorized officer" and by removing the word "Supervisor" and replacing it with the phrase "authorized officer"; and

B. Amending paragraph (b) by removing in the two places it appears the word "Supervisor" and replacing it with the phrase "authorized officer".

§ 3162.7-3 [Amended]

26. Section 3162.7–3, formerly 30 CFR 221.35, is amended by:

A. Amending paragraph (a) by removing the word "DMM" and replacing it with the phrase "authorized officer" and by removing the word "Supervisor" and replacing it with the phrase "authorized officer"; and

B. Amending paragraph (b) by removing in the two places it appears the word "Supervisor" and replacing it with the phrase "authorized officer".

§ 3162.7-1 [Amended]

27. Section 3162.7–1, formerly 30 CFR 221.36, is amended by:

A. Amending paragraph (b) by removing in the two places it appears the word "Supervisor" and replacing it with the phrase "authorized officer"; and

B. Amending paragraph (e) by removing the word "DMM" and replacing it with the phrase "authorized officer".

§ 3162.7-4 [Amended]

28. Section 3162.7–4, formerly 30 CFR 221.37, is amended by:

A. Amending paragraph (a) by removing the definitions of the terms "authorized officer," "authorized representative" and "proper BLM office"; and

B. Amending paragraph (b) by removing in subparagraph (4) the citation "§ 221.36" and replacing it with the citation "§ 3162.7–1 of this title".

§ 3163.1 [Amended]

29. Section 3163.1, formerly 30 CFR 221.50, is amended by removing from the three places it appears the word "Supervisor" and replacing it with the phrase "authorized officer".

§ 3163.3 [Amended]

30. Section 3163.3, formerly 30 CFR 221.52, is amended by:

A. Amending paragraph (a) by removing the phrase "Supervisor or DMM" and replacing it with the phrase "authorized officer";

B. Amending paragraph (b) by removing in the two places it appears the word "Supervisor" and replacing it with the phrase "authorized officer";

C. Amending paragraph (d) by removing the citation "§ 221.27" and replacing it with the citation "§ 3162.3–2 of this title"; and

D. Amending paragraph (j) by removing the word "Supervisor" and replacing it with the phrase "authorized officer".

§ 3163.4 [Amended]

31. Section 3163.4, formerly 30 CFR 221.53, is amended by removing the phrase "DMM or his representative, the DMM" and replacing it with the phrase "authorized officer, the authorized officer", by removing the phrase "Minerals Manager" and replacing it with the phrase "State Director" and by removing the citation "30 CFR Part 290" and replacing it with the citation "Part 4 of this title."

§ 3163.5 [Amended]

32. Section 3163.5, formerly 30 CFR 221.54, is amended by:

A. Amending paragraph (a) by removing the citation "§ 221.52" and replacing it with the citation "§ 3163.3 of this title", by removing the phrase ", as directed by the Supervisor or DMM in the notice." and by removing the citation "§ 221.123 of this part" and replacing it with the phrase "pursuant to the regulations of the Minerals Management Service.";

B. Amending paragraph (b) by removing the citation "§ 221.53" and replacing it with the citation "§ 3163.4 of this title", by removing the citation "30 CFR Part 290" and replacing it with the citation "or Part 4 of this title." and by removing the citation "§ 221.123 of this part" and replacing it with the phrase "pursuant to the regulations of the Minerals Management Service."; and

C. Amending paragraph (c) by removing the citation "§ 221.52" and replacing it with the citation "§ 3163.3 of this title."

§ 3164.2 [Amended]

33. Section 3164.2, formerly 30 CFR 221.15, is amended by removing from paragraph (a) the word "DMM" and replacing it with the phrase "authorized officer" and by removing from paragraph (b) the phrase "Minerals Management Service" and replacing it with the phrase "Bureau of Land Management".

§ 3164.3 [Amended]

34. Section 3164.3(b), formerly 30 CFR 221.60, is amended by removing the word "Supervisor" and replacing it with the phrase "authorized officer".

§ 3165.1 [Amended]

35. Section 3165.1, formerly 30 CFR 221.70, is amended by:

A. Amending paragraph (a) by removing the word "DMM" and replacing it with the phrase "authorized officer"

B. Amending paragraph (b) by removing in the two places it appears the word "DMM" and replacing it with the phrase "authorized officer" and by removing the citation "30 CFR Part 226" and replacing it with the citation "Part 3180 of this title; and

C. Amending paragraph (c) by removing in the two places it appears the word "DMM" and replacing it with the phrase "authorized officer".

§ 3165.2 [Amended]

36. Section 3165.2, formerly 30 CFR 221.71, is amended by removing the phrase "or in 43 CFR Group 3100" and by removing the phrase "DMM and the Supervisor" and replacing it with the phrase "authorized officer".

§ 3165.3 [Amended]

37. Section 3165.3, formerly 30 CFR 221.72, is amended by removing the phrase "Supervisor or DMM" and replacing it with the phrase "authorized officer", by removing the phrase "next higher level reviewing official (the DMM or Minerals Manager, as appropriate)." and replacing it with the phrase "appropriate State Director." and by removing the citation "§ 221.73 of this part." and replacing it with the citation "§ 3165.4 of this title."

38. Section 3165.4, formerly 30 CFR 221.73, is revised to read:

§ 3165.4 Appeals.

Instructions, orders or decisions issued under the regulations in this part may be appealed in accordance with the provisions of Part 4 of this title if Federal lands are involved or 25 CFR Part 2 if Indian lands are involved. An appeal shall not result in a suspension of the requirement for compliance with the order or decision from which the appeal is taken unless the official to whom the appeal is made determines that suspension of the requirements of the order or decision will not be detrimental to the interests of the lessor or upon submission and acceptance of a bond deemed adequate to indemnify the lessor from loss or damage.

39. Section 3165.1–1, formerly 30 CFR 221.104, is revised to read:

§ 3165.1–1 Relief from royalty and rental requirements.

Applications for any modification authorized by law of the royalty or rental requirements of a lease for lands of the United States shall be filed in triplicate in the office of the authorized officer having jurisdiction of the lands. (For other regulations relating to royalty and rental relief, and suspension of operations and production, see Part 3103 of this title.)

40. Section 3162.4–3, formerly 30 CFR 221.117, is amended by:

A. Revising the opening paragraph to read:

§ 3162.4–3 [Amended]

A separate report of operations for each lease shall be made on Form 9–329 for each calendar month, beginning with the month in which drilling operations are initiated, and shall be filed in duplicate with the authorized officer on or before the 10th day of the second month following the production month, unless an extension of time for the filing of such report is granted by the authorized officer. The report on this form shall disclose accurately all operations conducted on each well during each month, the status of operations on the last day of the month, and a general summary of the status of operations on the leased lands, and the report shall be submitted each month until the lease is terminated or until omission of the report is authorized by the authorized officer. It is particularly necessary that the report shall show for each calendar month:

B. Revising paragraph (d) to read:

(d) The quantity of oil, gas and water produced, the total amount of gasoline, and other lease products recovered, and other required information. When oil and gas, or oil, gas and gasoline, or other hydrocarbons are concurrently produced from the same lease, separate reports on this form should be submitted for oil and for gas and gasoline, unless otherwise authorized or directed by the authorized officer.

C. Revising paragraph (f) to read:

(f) The footnote shall be completely filled out as required by the authorized officer. If no runs or sales were made during the calendar month, the report shall so state.

II.

1. 30 CFR Part 226 is redesignated as 43 CFR Part 3180 as shown in the following redesignation table:

Redesignation Table

Old 30 CFR Part 226	New 43 CFR Part 3180
	Insert new part title—Part 3180—Onshore Oil and Gas Unit Agreements— Unproven Areas.
	Insert new Subpart 3180—Onshore oil and gas unit agreements—General
226.1(a)	3180.0–1 Purpose.
	Insert new § 3180.0–3 Authority.
226.1(b)	3180.0–4 Policy.
226.2	3180.0–5
226.3	3181.2
	Insert new Subpart 3181—Application for Unit agreement.
226.4	3181.1
226.5	3181.3
	Insert new Subpart 3182—Qualifications of unit operator.
226.6	3182.1
226.7	3182.4
226.8	3183.3–1 Approval of executed agreement.
	Insert new Subpart 3183—Filing and approval of documents.
226.9(a)	3183.1 Where to file papers.
226.9(b)	3183.2 Designation of areas.
226.9(c)	3183.3 Executed agreements.
226.9(d)	3183.4 Participating area.
226.9(e)	3183.5 Plan of development.
226.9(f)	3183.6 Return of approved documents.
	Insert new Subpart 3184—Bonds.
226.10	3184.1
	Insert new Subpart 3185—Appeals
226.11	3185.1
	Insert new Subpart 3186—Model forms.
226.12	3186.1
226.13	3186.1–1
226.14	3186.1–2
226.15	3186.2
226.16	3186.3
226.17	3186.4

2. Part 3180 is amended by adding immediately after the title the following language to read:

Note.—Many existing unit agreements currently in effect specifically refer to the United States Geological Survey, USGS, Minerals Management Service, MMS, Supervisor, Conservation Manager, Deputy Conservation Manager, Minerals Manager and Deputy Minerals Manager in the body of the agreements, as well as references to 30 CFR Part 221 or specific sections thereof. Those references shall now be read in the context of Secretarial Order 3087 and now mean either the Bureau of Land Management or Minerals Management Service, as appropriate.

3. Section 3186.0–1, formerly paragraph (a) of 30 CFR 226.1, is revised to read:

§ 3160.0–1 Purpose.

The regulations in this part prescribe the procedures to be followed and the requirements to be met by the owners of any right, title or interest in Federal oil and gas leases (see § 3160.0–5 of this title) and their representatives who wish to unite with each other, or jointly or separately with others, in collectively adopting and operating under a unit plan for the development of any oil or gas pool, field or like area, or any part thereof. All unit agreements on Federal leases are subject to the regulations contained in Part 3160 of this title, Onshore Oil and Gas Operations. All unit operations on non-Federal lands included within Federal unit plans are subject to the reporting requirements of Part 3160 of this title.

4. Section 3160.0–2, formerly paragraph (b) of 30 CFR 226.1, is revised to read:

§ 3180.0–2 Policy.

Subject to the supervisory authority of the Secretary of the Interior, the administration of the regulations in this part shall be under the jurisdiction of the authorized officer. In the exercise of his/her discretion, the authorized officer shall be subject to the direction and supervisory authority of the Director, Bureau of Land Management, who may exercise the jurisdiction of the authorized officer.

5. A new § 3180.0–3 is added to read:

§ 3180.0–3 Authority.

The Mineral Leasing Act, as amended and supplemented (30 U.S.C. 181, 189, 226(e) and 226(j)), and Order Number 3087, dated December 3, 1982, as amended on February 7, 1983 (48 FR 8983), under which the Secretary consolidated and transferred the onshore minerals management functions of the Department, except mineral revenue functions and the responsibility for leasing of restricted Indian lands, to the Bureau of Land Management.

§ 3180.0–5 [Amended]

6. Section 3180.0–5, formerly 30 CFR 226.2, is amended by:

A. Removing the term *"Authorized Officer (AO)."* in its entirety;

B. Removing the term *"Director."* in its entirety;

C. Removing the term *"Proper BLM Office."* in its entirety;

D. Removing the term *"Secretary."* in its entirety;

E. Removing the term *"Unit Agreement (agreement)."* in its entirety;" and

F. Removing the term *"Unit Operator."* in its entirety.

§ 3181.2 [Amended]

7. Section 3181.2, formerly 30 CFR 226.3, is amended by removing the citation "30 CFR 221.33" and replacing it with the citation "§ 3162.8 of this title" and by removing the word "AO" and replacing it with the phrase "authorized officer".

§ 3181.1 [Amended]

8. Section 3181.1, formerly 30 CFR 226.4, is amended by removing in the two places it appears the citation "§ 226.12" and replacing it with the citation "§ 3186.1 of this title" and by removing the word "AO" and replacing it with the phrase "authorized officer".

§ 3182.1 [Amended]

9. Section 3182.1, formerly 30 CFR 226.6, is amended by removing the citation "43 CFR Group 3100." and replacing it with the citation "Subpart 3102 of this title." and by removing the work "AO" and replacing it with the phrase "authorized officer".

§ 3181.4 [Amended]

10. Section 3181.4(b), formerly 30 CFR 226.7(b), is amended by removing the word "AO" and replacing it with the phrase "authorized officer".

§ 3183.3–1 [Amended]

11. Section 3183.3–1, formerly 30 CFR 226.8, is amended by removing the phrase "(example in § 226.12)", replacing it with the phrase "(example in § 3186.1 of this title)" and by removing the word "AO" in the two places it appears and replacing it with the phrase "authorized officer".

§ 3183.3 [Amended]

12. Section 3183.3, formerly 226.9(c), is amended by removing the word "AO" and replacing it with the phrase "authorized officer".

§ 3183.6 [Amended]

13. Section 3183.6, formerly 226.9(f), is amended by removing the word "AO" and replacing it with the phrase "authorized officer".

§ 3184.1 [Amended]

14. Section 3184.1, formerly 30 CFR 226.10, is amended by removing the citation "§ 226.15." and replacing it with the citation "§ 3186.2 of this title." and by removing the word "AO" in the two places it appears and replacing it with the phrase "authorized officer".

§ 3185.1 [Amended]

15. Section 3185.1, formerly 30 CFR 226.11, is amended by removing the citation "30 CFR 221.72" and replacing it with the citation "§ 3165.3 of this title" and by removing the citation "30 CFR Part 290 of this chapter" and replacing it with the citation "Part 4 of this title".

§ 3186.1 [Amended]

16. Section 3186.1, formerly 30 CFR 226.12, is amended by:

A. Amending section 14 of the agreement by removing from the last paragraph of the section the citation "30 CFR Part 221" and replacing it with the citation "30 CFR Group 200".

B. Amending the guidelines at the end of the agreement by:

i. Amending guideline 2 by removing the citation "§§ 226.13 and 226.14." and replacing it with the citation "§§ 3186.1–1 and 3186.1–2 of this title.";

ii. Amending guideline 12 by removing the phrase "(See 30 CFR 226.7(a))." and replacing it with the phrase "(See § 3181.4(a) of this title).";

iii. Amending guideline 13 by removing the citation "30 CFR 226.7(b)." and replacing it with the citation "§ 3181.4(b) of this title."; and

iv. Amending the Certification—Determination by removing from the first paragraph the citation "30 CFR Part 226" and replacing it with the citation "43 CFR Part 3180".

J. Steven Griles,

Acting Assistant Secretary of the Interior.

August 5, 1983.

[FR Doc. 83–22090 Filed 8–11–83; 8:45 am]

Circ-2533

the address of the Commonwealth of Massachusetts in paragraph (b)(W) to read as follows:

§§ 60.4 and 61.04 [Amended]

* * * * *

(b) * * *

(W) Commonwealth of Massachusetts: Massachusetts Department of Environmental Quality Engineering, Division of Air Quality Control, One Winter Street, Boston, MA 02108.

* * * * *

2. Sections 60.4(b)(EE) and 61.04(b)(EE) are each amended by revising the address of the State of New Hampshire to read as follows:

* * * * *

(b) * * *

(EE) State of New Hampshire: New Hampshire Air Resources Agency, Health and Welfare Building, Hazen Drive, Concord, NH 03301.

* * * * *

3. Sections 60.4(b)(OO) and 61.04(b)(OO) are each amended by revising the address of the State of Rhode Island to read as follows:

* * * * *

(b) * * *

(OO) State of Rhode Island: Rhode Island Department of Environmental Management, 204 Cannon Building, Davis Street, Providence, RI 02908.

* * * * *

4. Sections 60.4(b)(UU) and 61.04(b)(UU) are each amended by revising the address of the State of Vermont to read as follows:

(b) * * *

(UU) State of Vermont: Vermont Agency of Environmental Conservation, Air Pollution Control, State Office Building, Montpelier, VT 05602.

* * * * *

[FR Doc. 83-22040 Filed 8-11-83; 8:45 am]
BILLING CODE 6560-50-M

---

40 CFR Parts 264 and 270

[SWA-FRL 2407-1]

Hazardous Waste Incinerators, Evaluating Permit Applications; Availability of Manual

AGENCY: Environmental Protection Agency.

ACTION: Notice of Availability.

This document announces the availability of a manual that will assist permit writers in evaluating permit applications for hazardous waste incinerators. The manual provides guidance to the permit writer for designating facility specific operating conditions necessary to comply with the standards. Each section of the incineration regulation is addressed, including: waste analysis, designation of principal organic hazardous constituents in the waste, and requirements for operation, inspection and monitoring. Guidance is also provided for evaluating incinerator performance data and the procedures followed in an incinerator trial burn.

ADDRESS: Copies of this report are available for reading at the EPA Library and the Subtitle C Docket Room (Room S-269), located at 401 M Street SW., Washington, D.C., during the hours of 9:00 A.M. to 4:30 P.M. Monday through Friday. Copies are also available for reading in the EPA regional libraries, and at the National Technical Information Service, Incinerator Guidance Manual, 5285 Port Royal Road, Springfield, VA 22151.

FOR FURTHER INFORMATION CONTACT: RCRA Hotline, at (800) 424-9346 (toll free) or at (202) 382-3000. For technical information contact Edward Martin at (202) 382-4761.

SUPPLEMENTARY INFORMATION: The Solid Waste Disposal Act, as amended by the Resource Conservation and Recovery Act of 1976, requires EPA to establish a national regulatory program to ensure that hazardous wastes are managed in a manner that does not endanger human health or the environment. Pursuant to this authority, standards for hazardous waste incinerators were promulgated on January 23, 1981 (46 FR 7666; 40 CFR Parts 264, 265 and 270) and amended on June 24, 1982 (47 FR 27520; 40 CFR Parts 264, 265 and 270).

This document announces the availability of a manual that will assist permit writers in evaluating permit applications for hazardous waste incinerators. The manual provides guidance to the permit writer for designating facility specific operating conditions necessary to comply with the standards. Each section of the incineration regulation is addressed, including: waste analysis, designation of principal organic hazardous constituents in the waste, and requirements for operation, inspection and monitoring. Guidance is also provided for evaluating incinerator performance data and the procedures followed in an incinerator trial burn.

For regulations containing reporting requirements, EPA must comply with the Paperwork Reduction Act. This notification is not of a regulatory nature. Rather, it announces the availability of a manual for use in interpreting the information collected during the permit process. Collection of the information needed to issue hazardous waste incinerator permits has already been approved by OMB. EPA has applied for an extension of that approval.

This manual was submitted to OMB for review under Executive Order 12291. It is not a major regulation; it is a guidance document.

Dated: June 27, 1983.

Lee M. Thomas,

Acting Assistant Administrator, Office of Solid Waste and Emergency Response.

[FR Doc. 83-22039 Filed 8-11-83; 8:45 am]
BILLING CODE 6560-50-M

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

Minerals Management Service

43 CFR Parts 3160 and 3180

30 CFR Parts 221 and 226

[Circular No. 2533]

Onshore Oil and Gas, General; Redesignation of Regulations

AGENCY: Bureau of Land Management, Interior.

ACTION: Final rulemaking.

SUMMARY: All of the Department of the Interior's non-royalty responsibilities related to the approval and supervision of operations on onshore Federal and Indian (except Osage) oil and gas leases have been consolidated within the Bureau of Land Management. This document transfers only those regulations in Title 30 CFR concerning Onshore Oil and Gas Operations and unit agreements previously administered by the Minerals Management Service to the Bureau of Land Management and redesignates them as Title 43 CFR, as follows:

Title 30 CFR Part 221 becomes Title 43 CFR Part 3160.

Title 30 CFR Part 226 becomes Title 43 CFR Part 3180.

EFFECTIVE DATE: August 12, 1983.

FOR FURTHER INFORMATION CONTACT:

Stephen H. Spector, (703) 860-7969

or

Robert C. Bruce, (202) 343-8753.

SUPPLEMENTARY INFORMATION: On December 3, 1982, the Secretary of the Interior, by Order No. 3087, as amended on February 7, 1983 (48 FR 8983), assigned all functions related to royalty and mineral revenue accountability to the Minerals Management Service and assigned all functions related to the minerals management of Federal and

Indian lands, including approval of drilling permits and production plans, and inspection and enforcement, to the Bureau of Land Management.

The separation of royalty revenue accountability functions from the mineral management functions has necessitated a division of the regulations now included in Title 30 CFR. The regulations pertaining to the management of onshore Federal and Indian (except Osage) oil and gas leases are addressed in this rulemaking. The regulations pertaining to minerals revenue accountability functions for these leases will be included in a separate redesignation rulemaking by the Minerals Management Service.

This final rule redesignates the regulations in Title 30 of the Code of Federal Regulations concerning lease operations and unit agreements involving onshore Federal and Indian (except Osage) oil and gas leases previously administered by the Minerals Management Service as Bureau of Land Management regulations at Title 43 of the Code of Federal Regulations. Publication of this rulemaking as a proposal for public comment is considered unnecessary since it is a redesignation of existing regulations. No change has been made in the substance of the regulations, except as necessary to recognize that the Bureau of Land Management, rather than the Minerals Management Service, will be responsible for their implementation and to conform the organization of the regulations to the Bureau of Land Management numbering system. Cross references between sections are also changed for correctness. Moreover, the effective date of this rulemaking will be the date of publication in the Federal Register, rather than 30 days after publication, since the Bureau of Land Management already is administering the redesignated portions of the regulations included in this rulemaking pursuant to Secretarial Order No. 3087, as amended.

The Department of the Interior has determined that because this rule is a redesignation of existing regulations, it is not a major rule for purposes of E.O. 12291, and neither an environmental impact analysis nor a regulatory flexibility analysis is required. The information collection requirements contained in newly designated 43 CFR Parts 3160 and 3180 have been or are in the process of receiving approval by the Office of Management and Budget under 44 U.S.C. 3507 and, where approved, assigned clearance numbers, as shown under each part. The reporting requirements are not affected by this redesignation.

Lists of Subjects

43 CFR Part 3160

Environmental protection, Government contracts, Mineral royalties, Oil and Gas exploration, Public lands—mineral resources, Reporting requirements.

43 CFR Part 3180

Government contracts, Oil and gas reserves, Public lands—mineral resources.

Under the authority of Secretarial Order 3087, December 3, 1982, as amended on February 7, 1983 (48 FR 8983), and the statutory authorities enumerated at each part, Group 3100, Subchapter C, Chapter II of Title 43 of the Code of Federal Regulations is amended as set forth below.

J. Steven Griles,

Acting Assistant Secretary of the Interior.

August 5, 1983.

I.

1. 30 CFR Part 221 is redesignated as 43 CFR Part 3160 as shown in the following redesignation table:

Redesignation Table

Old 30 CFR Part 221	New 43 CFR Part 3160
	Insert new part title—Part 3160—Onshore Oil and Gas Operations.
	Insert new Subpart 3160—Onshore Oil and Gas Operations—General.
221.1 (First sentence).	3160.0–1 Purpose.
221.1 (Second sentence).	3160.0–4 Objectives.
221.1 (Third sentence).	3160.0–2 Policy.
	Insert new § 3160.0–3 Authority.
221.2	3160.0–5.
221.2–1	Inserted as a note immediately after Part title.
221.3	3160.0–7.
221.4–221.9	Remove.
	Insert new Subpart 3161—Jurisdiction and Responsibility.
221.10	3161.1.
221.11	3161.2.
221.12	Remove.
221.13	Remove.
221.14	3164.1.
221.15	3164.2.
221.16–221.19	Remove.
	Insert Subpart 3162—Requirements for Lessees and Operators.
221.20	3162.1.
221.21	3162.3.
221.22	3162.2.
221.23	3162.3–1.
221.24	3162.6.
221.25	3162.5–2.
221.26	3162.4–2.
221.27	3162.3–2.
221.28	3162.3–3.
221.29	3162.3–4.
	Insert new § 3162.5—Environment and safety.
221.30	3162.5–1.
221.31	3162.5–3.
	Insert new § 3162.4—Records and reports.
221.32	3162.4–1.
221.33	3162.8.
	Insert new § 3162.7—Measurement, disposition and protection of production.
221.34	3162.7–2.
221.35	3162.7–3.
221.36	3162.7–1.
221.37	3162.7–4.
221.38–221.49	Remove.
	Insert new Subpart 3163—Non-Compliance and Assessments.
221.50	3163.1.
221.51	3163.2.
221.52	3163.3.
221.53	3163.4.
221.54	3163.5.
221.55–221.59	Remove.
	Insert new Subpart 3164—Special Provisions.
221.60	3164.3.
221.61	3164.4.
221.62–221.69	Remove.
	Insert new Subpart 3165—Relief, Conflicts and Appeals.
221.70	3165.1.
221.71	3165.2.
221.72	3165.3.
221.73	3165.4.
221.74–221.99	Remove.
221.104	3165.1–1.
221.117	3162.4–3.

2. Section 3160.0–1, formerly the first sentence of 30 CFR 221.1, is revised to read:

§ 3160.0–1 Purpose.

The regulations in this part govern operations associated with the exploration, development and production of oil and gas deposits from leases issued or approved by the United States, restricted Indian land leases and those under the jurisdiction of the Secretary of the Interior by law or administrative arrangement, including the National Petroleum Reserve—Alaska.

3. Section 3160.0–4, formerly the second sentence of 30 CFR 221.1 is revised to read:

§ 3160.0–4 Objectives.

The objective of these regulations is to promote the orderly and efficient exploration, development and production of oil and gas.

4. A new § 3160.0–3 is added to read:

§ 3160.0–3 Authority.

The Mineral Leasing Act, as amended and supplemented (30 U.S.C. 181 et seq.), the Act of May 21, 1930 (30 U.S.C. 301–306), the Mineral Leasing Act for Acquired Lands, as amended (30 U.S.C. 351–359), the Act of March 3, 1909, as amended (25 U.S.C. 396), the Act of May 11, 1938, as amended (25 U.S.C. 396a–396q), the Act of February 28, 1891, as amended (25 U.S.C. 397), the Act of May 29, 1924 (25 U.S.C. 398), the Act of March 3, 1927 (25 U.S.C. 398a–398e), the Act of June 30, 1919, as amended (25 U.S.C. 399), R.S. § 441 (43 U.S.C. 1457), the Attorney General's Opinion of April 2,

1941 (40 Op Atty. Gen. 41), the Federal Property and Administrative Services Act of 1949, as amended (40 U.S.C. 471 et seq.), the National Environmental Policy Act of 1969, as amended (42 U.S.C. 4321 et seq.), the Act of December 12, 1980 (94 Stat. 2964), the Combined Hydrocarbon Leasing Act of 1981 (95 Stat. 1070), the Federal Oil and Gas Royalty Management Act of 1982 (30 U.S.C. 1701), the Indian Mineral Development Act of 1982 (25 U.S.C. 2102), and Order Number 3087, dated December 3, 1982, as amended on February 7, 1983 (48 FR 8983) under which the Secretary consolidated and transferred the onshore minerals management functions of the Department, except mineral revenue functions and the responsibility for leasing of restricted Indian lands, to the Bureau of Land Management.

5. Section 3160.0–2, formerly the third sentence of 30 CFR 221.1, is revised to read:

§ 3160.0–2 Policy.

The regulations in this part are administered under the direction of the Director of the Bureau of Land Management; except that as to lands within naval petroleum reserves, they shall be administered under such official as the Secretary of Energy shall designate.

§ 3160.0–5 [Amended]

6. Section 3160.0–5, formerly 30 CFR 221.2, is amended by:

A. Removing the term *"Associate Director for Royalty Management"* in its entirety;

B. Removing the term *"Communitization Agreement"* in its entirety;

C. Removing the term *"Deputy Minerals Manager"* in its entirety;

D. Removing the term *"Designated Operator"* in its entirety;

E. Revising the term *"Director"* to read:

"*Director.* The Director of the Bureau of Land Management.";

F. Removing the term *"District Supervisor"* in its entirety;

G. Removing the term *"Gas"* in its entirety;

H. Removing the term *"Gas Storage Agreement"* in its entirety;

I. Removing the term *"Minerals Manager"* in its entirety;

J. Removing the term *"National Petroleum Reserve in Alaska"* in its entirety;

K. Removing the term *"Oil"* in its entirety; and

L. Removing the term *"Secretary"* in its entirety.

7. Part 3160 is amended by:

A. Adding immediately after the title to Part 3160 the language of 30 CFR 221.2–1, after removal of the section number and title, as a "NOTE:", and after removing the citation "Part 221" and replacing it with the citation "Part 3160";

B. Removing the table entitled "Royalty Accounting Forms" in the note, formerly 30 CFR 221.2–1, and the paragraph immediately following the table;

C. Amending the first sentence of the paragraph in the note, formerly 30 CFR 221.2–1, entitled "Other Reporting Requirements" by removing the citation "§§ 221.21, 221.23, 221.24, 221.25, 221.26, 221.27, 221.28, 221.29, 221.30, 221.32, 221.34, 221.35, 221.36, 221.37, 221.60, 221.70, and 221.72" and replacing it with the citation "§§ 3162.3, 3162.3–1, 3162.3–2, 3162.3–3, 3162.3–4, 3162.4–1, 3162.4–2, 3162.5–1, 3162.5–2, 3162.5–3, 3162.6, 3162.7–1, 3162.7–2, 3162.7–3, 3162.7–4, 3164.3, 3165.1 and 3165.3"; and

D. Adding a second note immediately after the first note to read:

Note.—There are many leases and agreements currently in effect, and which will remain in effect, involving both Federal and Indian oil and gas leases which specifically refer to the United States Geological Survey, USGS, Minerals Management Service, MMS, or Conservation Division. These leases and agreements also often specifically refer to various officers such as Supervisor, Conservation Manager, Deputy Conservation Manager, Minerals Manager and Deputy Minerals Manager. In addition, many leases and agreements specifically refer to 30 CFR Part 221 or specific sections thereof, which now means 43 CFR Part 3160. Those references shall now be read in the context of Secretarial Order 3087 and now mean either the Bureau of Land Management or Minerals Management Service, as appropriate.

8. Section 3160.0–7, formerly 30 CFR 221.3, is revised to read:

§ 3160.0–7 Cross references.

25 CFR Parts 221, 212, 213, and 227
30 CFR Group 200
40 CFR Chapter V
43 CFR Parts 2, 4, and 1820 and Groups 3000, 3100 and 3500

§ 3161.1 [Amended]

9. Section 3161.1, formerly 30 CFR 221.10, is amended by removing the phrase "the jurisdiction of the DMM for the Region in which the leased lands are located." and replacing it with the phrase "the direction of the authorized officer having jurisdiction of the leased lands."

10. Section 3161.2, formerly 30 CFR 221.11 and 221.12, is revised to read:

§ 3161.2 Responsibility of the authorized officer.

The authorized officer is authorized and directed to approve unitization, communitization, gas storage and other contractual agreements for Federal lands; to assess compensatory royalty; to approve suspensions of operations or production, or both; to issue NTL's; to approve and monitor other operator proposals for drilling, development or production of oil and gas; to perform technical and procedural reviews; to assess monetary penalties or liquidated damages; to provide technical information and advice relative to oil and gas development and operations on Federal and Indian lands; to enter into cooperative agreements with States, Federal agencies and Indian tribes relative to oil and gas development and operations; to approve, inspect and regulate the operations that are subject to the regulations in this part; to require compliance with lease terms, with the regulations in this title and all other applicable regulations promulgated under the cited laws; and to require that all operations be conducted in a manner which protects other natural resources and the environmental quality, protects life and property and results in the maximum ultimate recovery of oil and gas with minimum waste and with minimum adverse effect on the ultimate recovery of other mineral resources. The authorized officer may issue written or oral orders to govern specific lease operations. Any such oral orders shall be confirmed in writing by the authorized officer within 10 working days from issuance thereof. Before approving operations on leasehold, the authorized officer shall determine that the lease is in effect, that the operator is authorized to conduct such operations, that acceptable bond coverage has been provided and that the proposed plan of operations is sound both from a technical and environmental standpoint.

§ 3162.1 [Amended]

11. Section 3162.1, formerly 30 CFR 221.20, is amended by removing the word "Supervisor" and replacing it with the phrase "authorized officer".

§ 3162.3 [Amended]

12. Section 3162.3, formerly 30 CFR 221.21, is amended by:

A. Removing from paragraph (a) in the three places it appears the word "Supervisor" and replacing it with the phrase "authorized officer"; and

B. Removing from paragraph (b) the word "Supervisor" and replacing it with the phrase "authorized officer".

§ 3162.2 [Amended]

13. Section 3162.2, formerly 30 CFR 221.22, is amended by:

A. Amending paragraph (a) by removing from the second sentence the word "DMM" and replacing it with the phrase "authorized officer" and by removing from the fourth sentence the word "DMM's" and replacing it with the phrase "authorized officer's"; and

B. Amending paragraphs (b) and (c) by removing from where it appears the word "Supervisor" and replacing it with the phrase "authorized officer".

§ 3162.3-1 [Amended]

14. Section 3162.3-1, formerly 30 CFR 221.23, is amended by:

A. Amending paragraph (a) by removing the phrase "(see § 221.30)" and replacing it with the phrase "(see § 3162.5-1 of this title)", by removing the word "Supervisor" and replacing it with the phrase "authorized officer" and by removing in the three places it appears the word "DMM" and replacing it with the phrase "authorized officer";

B. Amending paragraph (c) by removing the word "Supervisor" and replacing it with the phrase "authorized officer" and by removing the word "Supervisor's" and replacing it with the phrase "authorized officer's";

C. Amending paragraph (e) by removing in the two places it appears the word "Supervisor" and replacing it with the phrase "authorized officer"; and

D. Amending paragraph (f) by removing the word "Supervisor" and replacing it with the phrase "authorized officer".

§ 3162.6 [Amended]

15. Section 3162.6, formerly 30 CFR 221.24, is amended by removing from paragraphs (a) and (b) where it appears the word "Supervisor" and replacing it with the phrase "authorized officer".

§ 3162.5-2 [Amended]

16. Section 3162.5-2, formerly 30 CFR 221.25, is amended by:

A. Amending paragraph (b) by removing in the two places it appears the word "Supervisor" and replacing it with the phrase "authorized officer"; and

B. Amending paragraph (d) by removing the word "Supervisor" and replacing it with the phrase "authorized officer".

§ 3162.4-2 [Amended]

17. Section 3162.4-2, formerly 30 CFR 221.26, is amended by removing from paragraphs (a) and (c) where it appears the word "Supervisor" and replacing it with the phrase "authorized officer".

§ 3162.3-2 [Amended]

18. Section 3162.3-2(a), formerly 30 CFR 221.27, is amended by removing in the two places it appears the word "Supervisor" and replacing it with the phrase "authorized officer" and by removing the citation "§ 221.23." and replacing it with the citation "§ 3162.3-1 of this title."

§ 3162.3-3 [Amended]

19. Section 3162.3-3, formerly 30 CFR 221.28, is amended by removing the citation "§ 221.23 of § 221.27" and replacing it with the citation "§ 3162.3-1 of § 3162.3-2 of this title" and by removing the word "Supervisor" and replacing it with the phrase "authorized officer".

§ 3162.3-4 [Amended]

20. Section 3162.3-4, formerly 30 CFR 221.29, is amended by:

A. Amending paragraph (a) by removing in the three places it appears the word "Supervisor" and replacing it with the phrase "authorized officer";

B. Amending paragraph (b) by removing the word "Supervisor" and replacing it with the phrase "authorized officer"; and

C. Amending paragraph (c) by removing in the four places it appears the word "Supervisor" and replacing it with the phrase "authorized officer".

§ 3162.5-1 [Amended]

21. Section 3162.5-1, formerly 30 CFR 221.30, is amended by:

A. Amending paragraph (a) by removing in the two places it appears the word "Supervisor" and replacing it with the phrase "authorized officer" and by removing the citation "§ 221.23" and replacing it with the citation "§ 3162.3-1 of this title";

B. Amending paragraph (b) by removing in the two places it appears the word "Supervisor" and replacing it with the phrase "authorized officer"; and

C. Amending paragraphs (c) and (d) by removing from where it appears the word "Supervisor" and replacing it with the phrase "authorized officer".

§ 3162.5-3 [Amended]

22. Section 3162.5-3, formerly 30 CFR 221.31, is amended by removing the word "Supervisor" and replacing it with the phrase "authorized officer".

§ 3162.4-1 [Amended]

23. Section 3162.4-1, formerly 30 CFR 221.32, is amended by:

A. Amending paragraph (b) by removing the citation "§ 221.2-1" and replacing it with the citation "the "NOTE" at the beginning of this title." and by removing from the two places it appears the word "Supervisor" and replacing it with the phrase "authorized officer"; and

B. Amending paragraph (c) by removing the word "Supervisor" and replacing it with the phrase "authorized officer".

§ 3162.8 [Amended]

24. Section 3162.8(d), formerly 30 CFR 221.33(d), is amended by removing the word "Supervisor" and replacing it with the phrase "authorized officer".

§ 3162.7-2 [Amended]

25. Section 3162.7-2, formerly 30 CFR 221.34, is amended by:

A. Amending paragraph (a) by removing the word "DMM" and replacing it with the phrase "authorized officer" and by removing the word "Supervisor" and replacing it with the phrase "authorized officer"; and

B. Amending paragraph (b) by removing in the two places it appears the word "Supervisor" and replacing it with the phrase "authorized officer".

§ 3162.7-3 [Amended]

26. Section 3162.7-3, formerly 30 CFR 221.35, is amended by:

A. Amending paragraph (a) by removing the word "DMM" and replacing it with the phrase "authorized officer" and by removing the word "Supervisor" and replacing it with the phrase "authorized officer"; and

B. Amending paragraph (b) by removing in the two places it appears the word "Supervisor" and replacing it with the phrase "authorized officer".

§ 3162.7-1 [Amended]

27. Section 3162.7-1, formerly 30 CFR 221.36, is amended by:

A. Amending paragraph (b) by removing in the two places it appears the word "Supervisor" and replacing it with the phrase "authorized officer"; and

B. Amending paragraph (e) by removing the word "DMM" and replacing it with the phrase "authorized officer".

§ 3162.7-4 [Amended]

28. Section 3162.7-4, formerly 30 CFR 221.37, is amended by:

A. Amending paragraph (a) by removing the definitions of the terms "authorized officer," "authorized representative" and "proper BLM office"; and

B. Amending paragraph (b) by removing in subparagraph (4) the citation "§ 221.36" and replacing it with the citation "§ 3162.7-1 of this title".

§ 3163.1 [Amended]

29. Section 3163.1, formerly 30 CFR 221.50, is amended by removing from the three places it appears the word "Supervisor" and replacing it with the phrase "authorized officer".

§ 3163.3 [Amended]

30. Section 3163.3, formerly 30 CFR 221.52, is amended by:

A. Amending paragraph (a) by removing the phrase "Supervisor or DMM" and replacing it with the phrase "authorized officer";

B. Amending paragraph (b) by removing in the two places it appears the word "Supervisor" and replacing it with the phrase "authorized officer";

C. Amending paragraph (d) by removing the citation "§ 221.27" and replacing it with the citation "§ 3162.3–2 of this title"; and

D. Amending paragraph (j) by removing the word "Supervisor" and replacing it with the phrase "authorized officer".

§ 3163.4 [Amended]

31. Section 3163.4, formerly 30 CFR 221.53, is amended by removing the phrase "DMM or his representative, the DMM" and replacing it with the phrase "authorized officer, the authorized officer", by removing the phrase "Minerals Manager" and replacing it with the phrase "State Director" and by removing the citation "30 CFR Part 290" and replacing it with the citation "Part 4 of this title."

§ 3163.5 [Amended]

32. Section 3163.5, formerly 30 CFR 221.54, is amended by:

A. Amending paragraph (a) by removing the citation "§ 221.52" and replacing it with the citation "§ 3163.3 of this title", by removing the phrase ", as directed by the Supervisor or DMM in the notice." and by removing the citation "§ 221.123 of this part" and replacing it with the phrase "pursuant to the regulations of the Minerals Management Service.";

B. Amending paragraph (b) by removing the citation "§ 221.53" and replacing it with the citation "§ 3163.4 of this title", by removing the citation "30 CFR Part 290" and replacing it with the citation "or Part 4 of this title." and by removing the citation "§ 221.123 of this part" and replacing it with the phrase "pursuant to the regulations of the Minerals Management Service."; and

C. Amending paragraph (c) by removing the citation "§ 221.52" and replacing it with the citation "§ 3163.3 of this title."

§ 3164.2 [Amended]

33. Section 3164.2, formerly 30 CFR 221.15, is amended by removing from paragraph (a) the word "DMM" and replacing it with the phrase "authorized officer" and by removing from paragraph (b) the phrase "Minerals Management Service" and replacing it with the phrase "Bureau of Land Management".

§ 3164.3 [Amended]

34. Section 3164.3(b), formerly 30 CFR 221.60, is amended by removing the word "Supervisor" and replacing it with the phrase "authorized officer".

§ 3165.1 [Amended]

35. Section 3165.1, formerly 30 CFR 221.70, is amended by:

A. Amending paragraph (a) by removing the word "DMM" and replacing it with the phrase "authorized officer"

B. Amending paragraph (b) by removing in the two places it appears the word "DMM" and replacing it with the phrase "authorized officer" and by removing the citation "30 CFR Part 226" and replacing it with the citation "Part 3180 of this title; and

C. Amending paragraph (c) by removing in the two places it appears the word "DMM" and replacing it with the phrase "authorized officer".

§ 3165.2 [Amended]

36. Section 3165.2, formerly 30 CFR 221.71, is amended by removing the phrase "or in 43 CFR Group 3100" and by removing the phrase "DMM and the Supervisor" and replacing it with the phrase "authorized officer".

§ 3165.3 [Amended]

37. Section 3165.3, formerly 30 CFR 221.72, is amended by removing the phrase "Supervisor or DMM" and replacing it with the phrase "authorized officer", by removing the phrase "next higher level reviewing official (the DMM or Minerals Manager, as appropriate)." and replacing it with the phrase "appropriate State Director." and by removing the citation "§ 221.73 of this part." and replacing it with the citation "§ 3165.4 of this title."

38. Section 3165.4, formerly 30 CFR 221.73, is revised to read:

§ 3165.4 Appeals.

Instructions, orders or decisions issued under the regulations in this part may be appealed in accordance with the provisions of Part 4 of this title if Federal lands are involved or 25 CFR Part 2 if Indian lands are involved. An appeal shall not result in a suspension of the requirement for compliance with the order or decision from which the appeal is taken unless the official to whom the appeal is made determines that suspension of the requirements of the order or decision will not be detrimental to the interests of the lessor or upon submission and acceptance of a bond deemed adequate to indemnify the lessor from loss or damage.

39. Section 3165.1–1, formerly 30 CFR 221.104, is revised to read:

§ 3165.1–1 Relief from royalty and rental requirements.

Applications for any modification authorized by law of the royalty or rental requirements of a lease for lands of the United States shall be filed in triplicate in the office of the authorized officer having jurisdiction of the lands. (For other regulations relating to royalty and rental relief, and suspension of operations and production, see Part 3103 of this title.)

40. Section 3162.4–3, formerly 30 CFR 221.117, is amended by:

A. Revising the opening paragraph to read:

§ 3162.4–3 [Amended]

A separate report of operations for each lease shall be made on Form 9–329 for each calendar month, beginning with the month in which drilling operations are initiated, and shall be filed in duplicate with the authorized officer on or before the 10th day of the second month following the production month, unless an extension of time for the filing of such report is granted by the authorized officer. The report on this form shall disclose accurately all operations conducted on each well during each month, the status of operations on the last day of the month, and a general summary of the status of operations on the leased lands, and the report shall be submitted each month until the lease is terminated or until omission of the report is authorized by the authorized officer. It is particularly necessary that the report shall show for each calendar month:

B. Revising paragraph (d) to read:

(d) The quantity of oil, gas and water produced, the total amount of gasoline, and other lease products recovered, and other required information. When oil and gas, or oil, gas and gasoline, or other hydrocarbons are concurrently produced from the same lease, separate reports on this form should be submitted for oil and for gas and gasoline, unless otherwise authorized or directed by the authorized officer.

C. Revising paragraph (f) to read:

(f) The footnote shall be completely filled out as required by the authorized officer. If no runs or sales were made during the calendar month, the report shall so state.

II.

1. 30 CFR Part 226 is redesignated as 43 CFR Part 3180 as shown in the following redesignation table:

Redesignation Table

Old 30 CFR Part 226	New 43 CFR Part 3180
	Insert new part title—Part 3180—Onshore Oil and Gas Unit Agreements— Unproven Areas.
	Insert new Subpart 3180—Onshore oil and gas unit agreements—General
226.1(a)	3180.0–1 Purpose.
	Insert new § 3180.0–3 Authority.
226.1(b)	3180.0–4 Policy.
226.2	3180.0–5
226.3	3181.2
	Insert new Subpart 3181—Application for Unit agreement.
226.4	3181.1
226.5	3181.3
	Insert new Subpart 3182—Qualifications of unit operator.
226.6	3182.1
226.7	3182.4
226.8	3183.3–1 Approval of executed agreement.
	Insert new Subpart 3183—Filing and approval of documents.
226.9(a)	3183.1 Where to file papers.
226.9(b)	3183.2 Designation of areas.
226.9(c)	3183.3 Executed agreements.
226.9(d)	3183.4 Participating area.
226.9(e)	3183.5 Plan of development.
226.9(f)	3183.6 Return of approved documents.
	Insert new Subpart 3184—Bonds.
226.10	3184.1
	Insert new Subpart 3185—Appeals
226.11	3185.1
	Insert new Subpart 3186—Model forms.
226.12	3186.1
226.13	3186.1–1
226.14	3186.1–2
226.15	3186.2
226.16	3186.3
226.17	3186.4

2. Part 3180 is amended by adding immediately after the title the following language to read:

Note.—Many existing unit agreements currently in effect specifically refer to the United States Geological Survey, USGS, Minerals Management Service, MMS, Supervisor, Conservation Manager, Deputy Conservation Manager, Minerals Manager and Deputy Minerals Manager in the body of the agreements, as well as references to 30 CFR Part 221 or specific sections thereof. Those references shall now be read in the context of Secretarial Order 3087 and now mean either the Bureau of Land Management or Minerals Management Service, as appropriate.

3. Section 3186.0–1, formerly paragraph (a) of 30 CFR 226.1, is revised to read:

§ 3160.0–1 Purpose.

The regulations in this part prescribe the procedures to be followed and the requirements to be met by the owners of any right, title or interest in Federal oil and gas leases (see § 3160.0–5 of this title) and their representatives who wish to unite with each other, or jointly or separately with others, in collectively adopting and operating under a unit plan for the development of any oil or gas pool, field or like area, or any part thereof. All unit agreements on Federal leases are subject to the regulations contained in Part 3160 of this title, Onshore Oil and Gas Operations. All unit operations on non-Federal lands included within Federal unit plans are subject to the reporting requirements of Part 3160 of this title.

4. Section 3180.0–2, formerly paragraph (b) of 30 CFR 226.1, is revised to read:

§ 3180.0–2 Policy.

Subject to the supervisory authority of the Secretary of the Interior, the administration of the regulations in this part shall be under the jurisdiction of the authorized officer. In the exercise of his/her discretion, the authorized officer shall be subject to the direction and supervisory authority of the Director, Bureau of Land Management, who may exercise the jurisdiction of the authorized officer.

5. A new § 3180.0–3 is added to read:

§ 3180.0–3 Authority.

The Mineral Leasing Act, as amended and supplemented (30 U.S.C. 181, 189, 226(e) and 226(j)), and Order Number 3087, dated December 3, 1982, as amended on February 7, 1983 (48 FR 8983), under which the Secretary consolidated and transferred the onshore minerals management functions of the Department, except mineral revenue functions and the responsibility for leasing of restricted Indian lands, to the Bureau of Land Management.

§ 3180.0–5 [Amended]

6. Section 3180.0–5, formerly 30 CFR 226.2, is amended by:

A. Removing the term *"Authorized Officer (AO)."* in its entirety;

B. Removing the term *"Director."* in its entirety;

C. Removing the term *"Proper BLM Office."* in its entirety;

D. Removing the term *"Secretary."* in its entirety;

E. Removing the term *"Unit Agreement (agreement)."* in its entirety;" and

F. Removing the term *"Unit Operator."* in its entirety.

§ 3181.2 [Amended]

7. Section 3181.2, formerly 30 CFR 226.3, is amended by removing the citation "30 CFR 221.33" and replacing it with the citation "§ 3162.8 of this title" and by removing the word "AO" and replacing it with the phrase "authorized officer".

§ 3181.1 [Amended]

8. Section 3181.1, formerly 30 CFR 226.4, is amended by removing in the two places it appears the citation "§ 226.12" and replacing it with the citation "§ 3186.1 of this title" and by removing the word "AO" and replacing it with the phrase "authorized officer".

§ 3182.1 [Amended]

9. Section 3182.1, formerly 30 CFR 226.6, is amended by removing the citation "43 CFR Group 3100." and replacing it with the citation "Subpart 3102 of this title." and by removing the work "AO" and replacing it with the phrase "authorized officer".

§ 3181.4 [Amended]

10. Section 3181.4(b), formerly 30 CFR 226.7(b), is amended by removing the word "AO" and replacing it with the phrase "authorized officer".

§ 3183.3–1 [Amended]

11. Section 3183.3–1, formerly 30 CFR 226.8, is amended by removing the phrase "(example in § 226.12)", replacing it with the phrase "(example in § 3186.1 of this title)" and by removing the word "AO" in the two places it appears and replacing it with the phrase "authorized officer".

§ 3183.3 [Amended]

12. Section 3183.3, formerly 226.9(c), is amended by removing the word "AO" and replacing it with the phrase "authorized officer".

§ 3183.6 [Amended]

13. Section 3183.6, formerly 226.9(f), is amended by removing the word "AO" and replacing it with the phrase "authorized officer".

§ 3184.1 [Amended]

14. Section 3184.1, formerly 30 CFR 226.10, is amended by removing the citation "§ 226.15." and replacing it with the citation "§ 3186.2 of this title." and by removing the word "AO" in the two places it appears and replacing it with the phrase "authorized officer".

§ 3185.1 [Amended]

15. Section 3185.1, formerly 30 CFR 226.11, is amended by removing the citation "30 CFR 221.72" and replacing it with the citation "§ 3165.3 of this title" and by removing the citation "30 CFR Part 290 of this chapter" and replacing it with the citation "Part 4 of this title".

§ 3186.1 [Amended]

16. Section 3186.1, formerly 30 CFR 226.12, is amended by:

A. Amending section 14 of the agreement by removing from the last paragraph of the section the citation "30 CFR Part 221" and replacing it with the citation "30 CFR Group 200".

B. Amending the guidelines at the end of the agreement by:

i. Amending guideline 2 by removing the citation "§§ 226.13 and 226.14." and replacing it with the citation "§§ 3186.1–1 and 3186.1–2 of this title.";

ii. Amending guideline 12 by removing the phrase "(See 30 CFR 226.7(a))." and replacing it with the phrase "(See § 3181.4(a) of this title).";

iii. Amending guideline 13 by removing the citation "30 CFR 226.7(b)." and replacing it with the citation "§ 3181.4(b) of this title."; and

iv. Amending the Certification—Determination by removing from the first paragraph the citation "30 CFR Part 226" and replacing it with the citation "43 CFR Part 3180".

[FR Doc. 83-22090 Filed 8-11-83; 8:45 am]

BILLING CODE 4310-84-M

---

43 CFR Part 3570

30 CFR Part 231

[Circular No. 2532]

Operating Procedures for Exploration, Development and Production; Redesignation

AGENCY: Bureau of Land Management, Interior.

ACTION: Final Rulemaking.

SUMMARY: On December 3, 1982, the Secretary of the Interior issued Order No. 3087, which was amended on February 7, 1983, transferring all onshore management functions of the Minerals Management Service, not relating to royalty management, to the Bureau of Land Management. Notice of this transfer of management functions was published in the Federal Register of March 2, 1983 (48 FR 8982). In accordance with that order and the above notice, the regulations in 30 CFR Part 231 are being transferred to 43 CFR Part 3570. This notice redesignates the appropriate sections of 30 CFR Part 231 as 43 CFR Part 3570 and makes necessary administrative amendments to bring the redesignated sections into conformance with the language of Title 43 of the Code of Federal Regulations.

EFFECTIVE DATE: August 12, 1983.

ADDRESS: Any suggestions or inquiries should be sent to: Director (660) Bureau of Land Management 1800 C Street NW Washington, D.C. 20240.

FOR FURTHER INFORMATION CONTACT: Paul Sternbergy (202) 860–7506.

The principal author of this final rulemaking is Paul J. Buff, Division of Solid Mineral Operations, Bureau of Land Management, assisted by the staff of the Office of Legislation and Regulatory Management, Bureau of Land Management.

Because this final rulemaking is an administrative action reflecting actions that have already occurred and that have no additional impacts on leasable mineral exploration and mining operations, it has been determined that no action needs to be taken with regard to a determination under either the provisions of section 102(2)(C) of the National Environmental Policy Act (42 U.S.C. 4332(2)(C)) or the provisions of Executive Order 12291.

There are no additional information collection requirements contained in this final rulemaking.

This final rulemaking is administrative and has no additional impacts on the public. Further, it reflects actions that have already occurred. It will, therefore, be effective upon publication.

List of Subjects in 43 CFR Part 3570

Environmental protection, Government contracts, Mineral royalties, Mines, Public lands—mineral resources, Reporting requirements.

Under the authority of Order No. 3087 issued by the Secretary of the Interior on December 3, 1982, as amended on February 7, 1983, which transferred all onshore management functions of the Minerals Management Service, not relating to royalty management, to the Bureau of Land Management, 30 CFR Part 231 is redesignated as Part 3570, Group 3500, Subchapter C, Chapter II of Title 43 of the Code of Federal Regulations and is amended as set forth below.

Dated: August 5, 1983.

J. Steven Griles,

Acting Assistant Secretary of the Interior.

1. 30 CFR Part 231 is redesignated as 43 CFR Part 3570 as shown in the following redesignation table:

REDESIGNATION TABLE

Old 30 CFR No.	New 43 CFR No.
Sec.	Sec.
	Insert Part Heading—Part 3570—Solid Minerals (Other Than Coal) Exploration and Mining Operations.
	Insert Subpart 3570—Solid Minerals (Other than Coal) Exploration and Mining Operations, General.
231.1(b)	3570.0–1 Purpose.
231.3	3570.0–2 Policy.
231.2	3570.0–5 Definitions.

REDESIGNATION TABLE—Continued

Old 30 CFR No.	New 43 CFR No.
231.1(a)	3570.0–7 Scope.
231.5	3570.0–8.
231.1(c)	3570.0–9 Cross references.
	Insert Subpart 3571—General Obligations of Lessees and Permittees.
231.4	3571.1.
	Insert Subpart 3572—Maps and Plans.
231.10	3572.1.
231.11	3572.2.
231.12	3572.3.
	Insert Subpart 3573—Bore Holes and Samples.
231.20	3573.1.
	Insert Subpart 3574—Mining Methods.
231.31	3574.1.
231.32	3574.2.
231.33	3574.3.
231.34	3574.4.
231.35	3574.5.
	Insert Subpart 3575—Protection Against Mining Hazards.
231.40	3575.1.
231.41	3575.2.
	Insert Subpart 3576—Milling Waste From Mining or Milling.
231.50	3576.1.
231.51	3576.2.
	Insert Subpart 3577—Production Records and Audit.
231.60	3577.1.
231.61	3577.2.
231.62	3577.3.
	Insert Subpart 3578—Inspection, Issuance of Orders and Enforcement of Orders.
231.70	3578.1.
231.71	3578.2.
231.72	3578.3.
231.73	3578.4.
231.74	3578.5.
	Insert Subpart 3579—Late Payment or Underpayment of Charges.
231.80	3579.1.

PART 3570—[AMENDED]

2. Part 3570 is amended by inserting immediately after the part heading a "Note:" to read:

Note.—There are many leases and agreements currently in effect, and which will remain in effect, involving Federal leases which specifically refer to the United States Geological Survey, USGS, Minerals Management Service, MMS, or Conservation Division. These leases and agreements also often specifically refer to various officers such as Supervisor, Conservation Manager, Deputy Conservation Manager, Minerals Manager and Deputy Minerals Manager. In addition, many leases and agreements specifically refer to 30 CFR Part 231 or specific sections thereof. Those references shall now be read in the context of Secretarial Order 3087 and now mean either the Bureau of Land Management or Minerals Management Service, as appropriate.

§ 3570.0–1 [Amended]

3. Section 3570.0–1, formerly 30 CFR 231.1(b), is amended by adding the word "Purpose" as title of the section and by removing the figure "(b)".

§ 3570.0–2 [Amended]

4. Section 3570.0–2, formerly 30 CFR 231.3, is amended by:

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

Minerals Management Service

43 CFR Part 3480

30 CFR Part 211

[Circular No. 2534]

Coal Mining Operations; Redesignating the Coal Mining Operations Regulations

Under the authority of Order No. 3087 issued by the Secretary of the Interior on December 3, 1982, as amended on February 7, 1983, which transferred all onshore management functions of the Minerals Management Service, not relating to royalty management, to the Bureau of Land Management, 30 CFR Part 211 is redesignated as Part 3480, Group 3400, Subchapter C, Chapter II of Title 43 of the Code of Federal Regulations and is amended as set forth below.

1. 30 CFR Part 211 is redesignated as 43 CFR Part 3480 as shown in the following redesignation table:

REDESIGNATION TABLE

Old 30 CFR No.	New 43 CFR No.
	Insert PART 3480—COAL EXPLORATION AND MINING OPERATIONS RULES.
	Insert Subpart 3480—Coal Exploration and Mining Operations Rules—General.
211.1(a)	3480.0-4.
211.1(b)	3480.0-1.
211.1(c)	3480.0-6(a).
211.2	3480.0-5.
211.2-1	Redesignated as Note under Part heading.
211.3	3480.0-6 (b) through (e)
	Insert Subpart 3481—General Provisions.
211.4	3481.1.
211.5	3481.2.
211.6	3481.3.
	Insert Subpart 3482—Exploration and Resource Recovery and Protection Plans.
211.10	3482.1.
211.11	3482.2.
211.12	3482.3.
	Insert Subpart 3483—*Diligence Requirements.*
211.20	3483.1.
211.21	3483.2.
211.22	3483.3.
211.23	3483.4.
211.24	3483.5.
211.25	3483.6.
	Insert Subpart 3484—Performance Standards.
211.40	3484.1.
211.41	3484.2.
	Insert Subpart 3485—Reports, Royalties and Records.
211.62	3485.1.
211.63	3485.2.
211.66	3485.3.
	Insert Subpart 3486—Inspection, Enforcement and Appeals.
211.70	3486.1.
211.71	3486.2.
211.72	3486.3.
211.73	3486.4.
	Insert Subpart 3487—Logical Mining Unit.
211.80	3487.1.

2. The "Note" containing the information collection requirements codification, formerly 30 CFR 211.2–1, is amended by removing from the first paragraph the phrase "30 CFR 211" and replacing it with the phrase "43 CFR Part 3480" and by removing from the third paragraph the phrase "30 CFR 211.4, 211.10, 211.11, 211.12, 211.22, 211.23, 211.62, 211.63, 211.72, 211.80, and 211.101" and replacing it with the phrase "§§3481.1, 3481.2, 3482.2, 3482.3, 3483.3, 3483.4, 3485.1, 3485.2, 3486.3 and 3487.1 of this title".

3. Adding a second note immediately after the first note to read:

Note.—There are many leases and agreements currently in effect, and which will remain in effect, involving Federal coal leases which specifically refer to the United States Geological Survey, USGS, Minerals Management Service, MMS, or Conservation Division. These leases and agreements also often specifically refer to various officers such as Supervisor, Conservation Manager, Deputy Conservation Manager, Minerals Manager and Deputy Minerals Manager. In addition, many leases and agreements specifically refer to 30 CFR Part 211 or specific sections thereof. Those references shall now be read to refer to 43 CFR Part 3480 or to the appropriate redesignated section thereof.

§ 3480.0-5 [Amended]

4. Section 3480.0–5(a), formerly 30 CFR 211.2(a), is amended by:

A. Removing the language of paragraph (a)(2) and substituting therefor:

(2) *Assistant Director for Solid Leasable Minerals* means Assistant Director for Solid Leasable Minerals, Bureau of Land Management;

Published in 48 F.R. 41589, September 16, 1983 - Effective September 16, 1983

B. Removing the language of paragraph (a)(3) and substituting therefor:

(3) *Assistant Secretary for Land and Water Resources* means the Assistant Secretary for Land and Water Resources, Department of the Interior;

C. Removing the language of paragraph (4) and substituting therefor:

(4) *Chief, Division of Solid Mineral Operations* means the Chief, Division of Solid Minerals Operations, Bureau of Land Management;

D. Removing paragraph (a)(5) in its entirety and renumbering paragraphs (6) through (14) as paragraphs (5) through (13), respectively;

E. Removing the language of paragraph (a)(10), formerly paragraph (11) and substituting therefor:

(10) *Deputy Director for Energy and Mineral Resources* means the Deputy Director for Energy and Mineral Resources, Bureau of Land Management;

F. Removing paragraphs (a)(15) and (16) in their entirety and renumbering paragraphs (17) through (27) as paragraphs (14) through (24), respectively;

G. Amending renumbered paragraph (a)(16), formerly paragraph (19), by removing the phrase "Deputy Minerals Manager for Mining" and replacing it with the phrase "State Director";

H. Amending renumbered paragraph (a)(17), formerly paragraph (20), by removing the citation "30 CFR 211.63" and replacing it with the citation "§ 3485.2(g)" of this title";

I. Amending renumbered paragraph (a)(21), formerly paragraph (24), by removing the phrase "District Mining Supervisor" and replacing it with the phrase "authorized officer";

J. Removing paragraphs (a)(28) and (29) in their entirety and renumbering paragraphs (30) through (40) as paragraphs (25) through (34);

K. Amending renumbered paragraph (a)(26), formerly paragraph (31), by removing the phrases "District Mining Supervisor" and "30 CFR 211.5" where they appear and replacing them with the respective phrases "authorized officer" and "§ 3481.2 of this title";

L. Removing paragraph (a)(41) in its entirety, and inserting a new paragraph (a)(35) to read:

(35) *State Director* means an employee of the Bureau of Land Management who has been designated as the chief administrative officer of one of the Bureau's 12 administrative areas designated as "States".

M. Renumbering paragraph (a)(42) as paragraph (36).

§ 3480.0–5 [Amended]

5. Section 3480.0–5, formerly 30 CFR 211.2, is amended by removing paragraph (b) in its entirety and renumbering paragraph (c) as paragraph (b).

§ 3480.0–6 [Amended]

6. Section 3480.0–6, formerly 30 CFR 211.1(c) and 211.3, is amended by:

A. Amending paragraph (a), formerly 30 CFR 211.1(c), be removing the figure "(c)" at the beginning of the paragraph and replacing it with the figure "(a)";

B. Amending paragraph (b), formerly 211.3(a), by removing the figure "(a)" at the beginning of the paragraph and replacing it with the figure "(b)" and by removing the word "MMS" and replacing it with the word "BLM";

C. Amending paragraph (c), formerly 30 CFR 211.3(b), by removing the figure "(b)" at the beginning of the paragraph and replacing it with the figure "(c)", by removing the word "MMS" and replacing it with the word "BLM" and by removing all language after the word "Director;" and replacing it with the phrase "Deputy Director for Energy and Mineral Resources; Chief, Division of Solid Mineral Operations; State Director and authorized officer".

D. Amending paragraph (d), formerly 30 CFR 211.3(c), by removing the figure "(c)" at the beginning of the paragraph and replacing it with the figure "(d)", by removing from paragraph (d) and paragraph (d)(8) the phrase "District Mining Supervisor" and replacing it with the phrase "authorized officer", by removing from paragraph (d)(10) and (d)(13)(iii) the phrase "authorized officer" and replacing it with the phrase "responsible officer of the surface managing agency"; and

E. Removing paragraph (e), formerly 30 CFR 211.3(d), in its entirety.

§ 3481.1 [Amended]

7. Section 3481.1, formerly 30 CFR 211.4, is amended by:

A. Amending paragraph (a) by removing the phrase "District Mining Supervisor" and replacing it with the phrase "authorized officer";

B. Amending paragraph (b) by removing the phrase "District Mining Supervisor" and replacing it with the phrase "authorized officer";

C. Amending paragraph (d) by removing the phrase "District Mining Supervisor" and replacing it with the phrase "authorized officer";

D. Amending paragraph (e) by removing in the two places it appears the phrase "District Mining Supervisor" and replacing it with the phrase "authorized officer" and by removing the last sentence of the paragraph; and

E. Amending paragraph (f) by removing the phrase "District Mining Supervisor or the Associate Director for Royalty Management" and replacing it with the phrase "authorized officer".

§ 3481.2 [Amended]

8. Section 3481.2, formerly 30 CFR 211.5, is amended by:

A. Amending paragraph (a) by removing the phrase "Minerals Manager, Deputy Minerals Manager for Mining, District Mining Supervisor and/or Associate Director for Royalty Management" and replacing it with the phrase "State Director and District Manager" and by removing the citation "30 CFR 211.6" and replacing it with the citation "§ 3481.3 of this title"; and

B. Amending paragraph (b) by removing from paragraph (b)(1) the citations "30 CFR 211.60" and "30 CFR 211.6" where they appear and by replacing them with the citation, "§ 3487.1 of this title" and § 3481.3 of this title", respectively, by removing in the four places it appears the phrase "District Mining Supervisor" and replacing it with the phrase "authorized officer", by removing from paragraph (b)(2) the phrase "District Mining Supervisor" and replacing it with the phrase "authorized officer" and by removing from paragraph (b)(3) in the three places it appears the phrase "District Mining Supervisor" and replacing it with the phrase "authorized officer".

9. Section 3481.3(b), formerly 30 CFR 211.6(b), is amended by removing the citation "30 CFR 211.6(a)" and replacing it with the citation "§ 3481.3(a) of this title".

§ 3482.1 [Amended]

10. Section 3482.1, formerly 30 CFR 211.10, is amended by:

A. Amending paragraph (a) by removing from paragraph (a)(1) the phrase "District Mining Supervisor" and replacing it with the phrase "authorized officer", by removing from paragraph (a)(2) the phrase "District Mining Supervisor" and replacing it with the phrase "authorized officer", by removing from paragraph (a)(3)(iii) the citation "30 CFR 211.10(a)(viii)" and replacing it with the citation "§ 3482.1(a)(viii) of this title", by removing from paragraph (a)(3)(vii) the citation "30 CFR 211.40(a)" and replacing it with the citation "§ 3484.1(a) of this title" and by removing from paragraph (a)(3)(x) the phrase "District Mining Supervisor" and

replacing it with the phrase "authorized officer";

B. Amending paragraph (b) by removing in the three places it appears the phrase "District Mining Supervisor" and replacing it with the phrase "authorized officer", by removing the citation "30 CFR 211.20(b)(1)" and replacing it with the citation "§ 3483.1(b)(1) of this title" and by removing the citation "30 CFR 211.80(e)(1)" and replacing it with the citation "§ 3487.1(e)(1) of this title"; and

C. Amending paragraph (c) by removing in the two places it appears the phrase "District Mining Supervisor" and replacing it with the phrase "authorized officer", and by removing from paragraph (c)(7) the phrase "District Mining Supervisor" and replacing it with the phrase "authorized officer".

§ 3482.2 [Amended]

11. Section 3482.2, formerly 30 CFR 211.11, is amended by:

A. Amending paragraph (a) by removing from paragraph (a)(1) in the two places it appears the phrase "authorized officer" and replacing it with the phrase "responsible officer of the surface managing agency" and by removing from paragraph (a)(1) in the four places it appears the phrase "District Mining Supervisor" and replacing it with the phrase "authorized officer", by removing from paragraph (a)(2) the phrase "District Mining Supervisor" and replacing it with the phrase "authorized officer", by removing from paragraph (a)(3) in the two places it appears the phrase "District Mining Supervisor" and replacing it with the phrase "authorized officer" and by removing from paragraph (a)(3) the citation "30 CFR 211.24" and replacing it with the citation "§ 3483.5 of this title";

B. Amending paragraph (b) by removing from the title the phrase "*District Mining Supervisor*" and replacing it with the phrase "*Authorized Officer*", by removing from paragraph (b)(1) the phrase "District Mining Supervisor" and replacing it with the phrase "authorized officer" and by removing the phrase "authorized officer" and replacing it with the phrase "responsible officer of the surface managing agency", by removing from paragraph (b)(2) in the two places it appears the phrase "District Mining Supervisor" and replacing it with the phrase "authorized officer"; and

C. Amending paragraph (c) by removing from paragraph (c)(1) in the two places it appears the phrase "District Mining Supervisor" and replacing it with the phrase "authorized officer" and by removing the phrase "authorized officer" and replacing it with the phrase "responsible officer of the managing agency", and by removing from paragraph (c)(2) in the three places it appears the phrase "District Mining Supervisor" and replacing it with the phrase "authorized officer".

§ 3482.3 [Amended]

12. Section 3482.3, formerly 30 CFR 211.12, is amended by:

A. Amending paragraph (a) by removing in the four places it appears the phrase "District Mining Supervisor" and replacing it with the phrase "authorized officer" and by removing the citation "30 CFR 211.12(b), (c) and (d)" with the citation "§ 3482.3(b), (c) and (d) of this title";

B. Amending paragraph (b) by removing the citation "30 CFR 211.12(a)" and replacing it with the citation "§ 3482.3(a) of this title" and by removing the phrase "District Mining Supervisor" and replacing it with the phrase "authorized officer";

C. Amending paragraph (c) by removing the citation "30 CFR 211.12(a)" and replacing it with the citation "§ 3482.3(a) of this title";

D. Amending paragraph (d) by removing the phrase "District Mining Supervisor" and replacing it with the phrase "authorized officer";

E. Amending paragraph (e) by removing the phrase "District Mining Supervisor" and replacing it with the phrase "authorized officer";

F. Amending paragraph (f) by removing the phrase "District Mining Supervisor" and replacing it with the phrase "authorized officer"; and

G. Amending paragraph (g) by removing the phrase "District Mining Supervisor" and replacing it with the phrase "authorized officer".

§ 3483.1 [Amended]

13. Section 3483.1, formerly 30 CFR 211.20, is amended by:

A. Amending paragraph (a) by removing from paragraph (a)(1) the citation "30 CFR 211.20(b)" and replacing it with the citation "§ 3483.1(b) of this title" and by removing from paragraph (a)(2) the citation "30 CFR 211.22" and replacing it with the citation "§ 3483.3 of this title"; and

B. Amending paragraph (b) by removing from paragraph (b)(1) the phrase "District Mining Supervisor" and replacing it with the phrase "authorized officer", by removing from paragraph (b)(1)(i) the phrase "District Mining Supervisor" and replacing it with the phrase "authorized officer" and by removing from paragraph (b)(1)(i)(C) the citation "30 CFR 211.24" and replacing it with the citation "§ 3483.5 of this title", and by removing from paragraph (b)(1)(ii) in the three places it appears the phrase "District Mining Supervisor" and replacing it with the phrase "authorized officer".

§ 3483.2 [Amended]

14. Section 3483.2(b), formerly 30 CFR 211.21, is amended by removing the citation "30 CFR 211.21(a)" and replacing it with the citation "§ 3483.2(a) of this title".

§ 3483.3 [Amended]

15. Section 3483.3, formerly 30 CFR 211.22, is amended by:

A. Amending paragraph (a) by removing in the two places it appears the phrase "District Mining Supervisor" and replacing it with the phrase "authorized officer", by removing from paragraph (a)(1) the phrase "District Mining Supervisor" and replacing it with the phrase "authorized officer" and by removing from paragraph (a)(2) in the two places it appears the phrase "District Mining Supervisor" and replacing it with the phrase "authorized officer" and by removing the citation "30 CFR 211.23" and replacing it with the citation "§ 3481.0–6 of this title"; and

B. Amending paragraph (b) by removing in the two places it appears the phrase "District Mining Supervisor" and replacing it with the phrase "authorized officer" and by removing the citation "30 CFR 211.22(b)" and replacing it with the citation "§ 3483.3(b) of this title", by removing from paragraph (b)(1) in the two places it appears the phrase "District Mining Supervisor" and replacing it with the phrase "authorized officer" and by removing the citation "30 CFR 211.2(b)" and replacing it with the citation "§ 3483.3(b) of this title", by removing from paragraph (b)(2) the phrase "District Mining Supervisor" and replacing it with the phrase "authorized officer" and by removing the citation "30 CFR 211.22(b)" and replacing it with the citation "§ 3483.3(b) of this title", by removing from paragraph (b)(3) the citation "30 CFR 211.22(b)" and replacing it with the citation "§ 3483.3(b) of this title" and by removing from paragraph (b)(4) the citation "30 CFR 211.11(b)" and replacing it with the citation "§ 3483.3(b) of this title".

§ 3483.4 [Amended]

16. Section 3483.4, formerly 30 CFR 211.23, is amended by:

A. Amending paragraph (a) by removing the phrase "District Mining

Supervisor" and replacing it with the phrase "authorized officer";

B. Amending paragraph (b) by removing the phrase "District Mining Supervisor" and replacing it with the phrase "authorized officer" and by removing the citation "30 CFR 211.102" and replacing it with the citation "30 CFR 218.20";

C. Amending paragraph (c) by removing the citation "30 CFR 211.63" and replacing it with the citation "§ 3485.2 of this title", by removing from paragraph (c)(2) the phrase "District Mining Supervisor" and replacing it with the phrase "authorized officer" and by removing from paragraph (c)(3) in the two places it appears the phrase "District Mining Supervisor" and replacing it with the phrase "authorized officer";

D. Amending paragraph (f) by removing the citation "30 CFR 211.23(e)" and replacing it with the citation "§ 3483.4(e) of this title"; and

E. Amending paragraph (g) by removing the phrase "District Mining Supervisor" and replacing it with the phrase "authorized officer", by removing the citation "30 CFR 211.102" and replacing it with the citation "30 CFR 218.200" and by removing the citation "30 CFR 211.21" and replacing it with the citation "§ 3483.2 of this title".

§ 3483.5 [Amended]

17. Section 3483.5, formerly 30 CFR 211.24, is amended by:

A. Amending paragraph (c) by removing the citation "30 CFR 211.20" and replacing it with the citation "§ 3483.1 of this title";

B. Amending paragraph (d) by removing the citation "30 CFR 211.20" and replacing it with the citation "§ 3483.1 of this title"; and

C. Amending paragraph (e) by removing the citation "30 CFR 211.20(b)(1)" and replacing it with the citation "§ 3483.1(b)(1) of this title" and by removing the citation "30 CFR 211.24(b)" and replacing it with the citation "§ 3483.5(b) of this title"

§ 3484.1 [Amended]

18. Section 3484.1, formerly 30 CFR 211.40, is amended by:

A. Amending paragraph (a) by removing from paragraph (a)(2) the phrase "District Mining Supervisor" and replacing it with the phrase "authorized officer", by removing from paragraph (a)(3) in the two places it appears the phrase "District Mining Supervisor" and replacing it with the phrase "authorized officer", by removing from paragraph (a)(4) in the three places it appears the phrase "District Mining Supervisor" and replacing it with the phrase "authorized officer", by removing from paragraph (a)(4) the citation "30 CFR 211.6" and replacing it with the citation "§ 3481.3 of this title", and by removing from paragraph (a)(5) in the two places it appears the phrase "District Mining Supervisor" and replacing it with the phrase "authorized officer";

B. Amending paragraph (b) by removing from paragraph (b)(1) in the two places it appears the phrase "District Mining Supervisor" and replacing it with the phrase "authorized officer", by removing from paragraph (b)(1) the phrase "30 CFR 211.10(c) and/or 30 CFR 211.80(c)" and replacing it with the phrase "§ 3482.1(c) and/or § 3487.1(c) of this title", by removing from paragraph (b)(2) the phrase "30 CFR 211.20 through 30 CFR 211.25" and replacing it with the phrase "§ 3483.1 through § 3483.6 of this title", by removing from paragraph (b)(3) in the two places it appears the phrase "District Mining Supervisor" and replacing it with the phrase "authorized officer"; and by removing from paragraph (b)(5) in the two places it appears the phrase "District Mining Supervisor" and replacing it with the phrase "authorized officer";

C. Amending paragraph (c) by removing from paragraph (c)(1) the phrase "District Mining Supervisor" and replacing it with the phrase "authorized officer", by removing from paragraph (c)(2) the phrase "District Mining supervisor" and replacing it with the phrase "authorized officer", by removing from paragraph (c)(3) in the two places it appears the phrase "District Mining Supervisor" and replacing it with the phrase "authorized officer", by removing from paragraph (c)(4)(i) in the two places it appears the phrase "District Mining Supervisor" and replacing it with the phrase "authorized officer", by removing from paragraph (c)(4)(ii) the phrase "District Mining Supervisor", and replacing it with the phrase "authorized officer", by removing from paragraph (c)(5) the phrase "District Mining Supervisor" and replacing it with the phrase "authorized officer", by removing from paragraph (c)(6)(i) in the four places it appears the phrase "District Mining Supervisor"and replacing it with the phrase "authorized officer", by removing from paragraph (c)(6)(ii) in the two places it appears the phrase "District Mining Supervisor" and replacing it with the phrase "authorized officer", and by removing from paragraph (c)(7) the phrase "District Mining Supervisor"and replacing it with the phrase "authorized officer";

D. Amending paragraph (d) by removing from paragraph (d)(3) the phrase "District Mining Supervisor" and replacing it with the phrase "authorized officer", by removing from paragraph (d)(5) the phrase "District Mining Supervisor" and replacing it with the phrase "authorized officer", and by removing from paragraph (d)(6) the phrase "District Mining Supervisor" and replacing it with the phrase "authorized officer"; and

E. Amending paragraph (e)(1) by removing in the two places it appears the phrase "District Mining Supervisor" and replacing it with the phrase "authorized officer".

§ 3484.2 [Amended]

19. Section 3484.2(b), formerly 30 CFR 211.41(b), is amended by removing in the two places it appears the phrase "District Mining Supervisor" and replacing it with the phrase "authorized officer", and by removing the phrase "authorized officer" and replacing it with the phrase "responsible office of the surface managing agency".

§ 3485.1 [Amended]

20. Section 3485.1, formerly 30 CFR 211.62, is amended by:

A. Amending paragraph (a) by removing in the two places it appears the phrase "District Mining Supervisor" and replacing it with the phrase "authorized officer", and by removing the citation "30 CFR 211.62(b)" and replacing it with the citation "§ 3485.1(b) of this title";

B. Amending paragraph (b) by removing from paragraph (b)(4) the phrase "District Mining Supervisor" and replacing it with the phrase "authorized officer", by removing from paragraph (b)(9) the citation "30 CFR 211.40(a)" and replacing it with the citation "§ 3484.1(a) of this title" and by removing from paragraph (b)(10) the phrase "District Mining Supervisor" and replacing it with the phrase "authorized officer";

C. Amending paragraph (c) by removing the phrase "District Mining Supervisor" and replacing it with the phrase "authorized officer";

D. Amending paragraph (d)(3) by removing the citation "30 CFR 211.80(h)(1)" and replacing it with the citation "§ 3487.1(h)(1) of this title";

E. Amending paragraph (e) by removing in the two places it appears the phrase "District Mining Supervisor" and replacing it with the phrase "authorized officer", and by removing the phrase "authorized officer" and replacing it with the phrase "responsible

officer of the surface managing agency"; and

F. Amending paragraph (f) by removing the citation "30 CFR 211.6" and replacing it with the citation "§ 3487.1(h)(1) of this title".

§3485.2 [Amended]

21. Section 3485.2, formerly 30 CFR 211.63, is amended by:

A. Amending paragraph (a) by removing the citation "30 CFR 211.23" and replacing it with the citation "§ 3483.4 of this title";

B. Amending paragraph (c) by removing in paragraph (c)(1) in the three places it appears the phrase "District Mining Supervisor" and replacing it with the phrase "authorized officer", by removing from paragraph (c)(2) the phrase "District Mining Supervisor" and replacing it with the phrase "authorized officer", by removing from paragraph (c)(2)(ii) the phrase "District Mining Supervisor" and replacing it with the phrase "authorized officer", by removing from paragraph (c)(3) the phrase "District Mining Supervisor" and replacing it with the phrase "authorized officer", and by removing from paragraph (c)(4) the phrase "District Mining Supervisor" and replacing it with the phrase "authorized officer";

C. Amending paragraph (e) by removing the phrase "District Mining Supervisor" and replacing it with the phrase "authorized officer";

D. Amending paragraph (f) by removing the phrase "District Mining Supervisor" and replacing it with the phrase "authorized officer" and by removing the citation "30 CFR 211.63(h)" and replacing it with the the citation "§ 3485.2(h) of this title";

E. Amending paragraph (g) by removing the word "MMS" and replacing it with the word "BLM", by removing in paragraph (g)(2) the word "MMS" and replacing it with the word "BLM";

F. Amending paragraph (h) by removing in the two places it appears the phrase "District Mining Supervisor" and replacing it with the phrase "authorized officer"; and

G. Amending paragraph (j) by removing the word "MMS" and replacing it with the word "BLM".

§3485.3 [Amended]

22. Section 3485.3, formerly 30 CFR 211.66, is amended by:

A. Amending paragraph (b) by removing the phrase "The District Mining Supervisor and the Associate Director for Royalty Management" and replacing it with the phrase "The authorized officer"; and

B. Amending paragraph (d) by removing the phrase "District Mining Supervisor and the Associate Director for Royalty Management in accordance with current MMS" and replacing it with the phrase "authorized officer in accordance with current BLM".

§3486.1 [Amended]

23. Section 3486.1, formerly 30 CFR 211.70(b), is amended by:

A. Amending paragraph (a) by removing the phrase "District Mining Supervisor" and replacing it with the phrase "authorized officer"; and

B. Amending paragraph (b) by removing the phrase District Mining Supervisor or the Associate Director for Royalty Management" and replacing it with the phrase "authorized officer".

§3486.2 [Amended]

24. Section 3486.2(a), formerly 30 CFR 211.71(a), is amended by removing in the two places it appears the phrase "District Mining Supervisor" and replacing it with the phrase "authorized officer".

§3486.3 [Amended]

25. Section 3486.3, formerly 30 CFR 211.72, is amended by:

A. Amending paragraph (a) by removing in the six places it appears the phrase "District Mining Supervisor" and replacing it with the phrase "authorized officer";

B. Amending paragraph (b) by removing the phrase "District Mining Supervisor" and replacing it with the phrase "authorized officer";

C. Amending paragraph (c) by removing in the three places it appears the phrase "District Mining Supervisor" and replacing it with the phrase "authorized officer";

D. Amending paragraph (d) by removing in the three places it appears the phrase "District Mining Supervisor" and replacing it with the phrase "authorized officer"; and

E. Amending paragraph (e) by removing the phrase "District Mining Supervisor" and replacing it with the phrase "authorized officer".

26. Section 3486.4, formerly 30 CFR 211.73, is revised to read:

§ 3486.4 Appeals.

Decisions or orders issued by the BLM under Part 3480 of this title may be appealed pursuant to Part 4 of this title.

§ 3487.1 [Amended]

27. Section 3487.1, formerly 30 CFR 211.80, is amended by:

A. Amending paragraph (a) by removing the phrase "District Mining Supervisor" and replacing it with the phrase "authorized officer" and by removing in the two places it appears the citation "30 CFR 211.80(g)" and replacing it with the citation "§ 3487.1(g) of this title";

B. Amending paragraph (b) by removing in the two places it appears the phrase "District Mining Supervisor" and replacing it with the phrase "authorized officer" and by removing the citation "30 CFR 211.80(e)" and replacing it with the citation "§ 3487.1(e) of this title";

C. Amending paragraph (c) by removing in the two places it appears the phrase "District Mining Supervisor" and replacing it with the phrase "authorized officer" and by removing the citation "30 CFR 211.80(b)" and replacing it with the citation "§ 3487.1(b) of this title", by removing from paragraph (c)(4) in the two places it appears the phrase "District Mining Supervisor" and replacing it with the phrase "authorized officer", by removing from paragraph (c)(5) the phrase "District Mining Supervisor" and replacing it with the phrase "authorized officer" and by removing from paragraph (c)(6) the citation "30 CFR 211.6" and replacing it with the citation "§ 3481.3 of this title."

D. Amending paragraph (d) by removing from paragraph (d)(1) in the two places it appears the phrase "District Mining Supervisor" and replacing it with the phrase "authorized officer" and by removing from paragraph (d)(2) the citation "30 CFR 211.5" and replacing it with the citation "§ 3481.2 of this title";

E. Amending paragraph (e) by removing the phrase "District Mining Supervisor"and replacing it with the phrase "authorized officer" and by removing the phrase "authorized officer" and replacing it with the phrase "responsible officer of the surface managing agency", by removing from paragraph (e)(1) the citation "30 CFR 211.10(c)" and replacing it with the citation "§ 3482.1(c) of this title", by removing from paragraph (e)(2) the citation "30 CFR 211.23" and replacing it with the citation "§ 3482.1(c) of this title", and by removing from paragraph (e)(7) the phrase "District Mining Supervisor" and replacing it with the phrase "authorized officer";

F. Amending paragraph (f) by removing the phrase "District Mining Supervisor" and replacing it with the phrase "authorized officer", by removing from paragraph (f)(3) the phrase

"District Mining Supervisor" and replacing it with the phrase "authorized officer" and by removing from paragraph (f)(4) the phrase "District Mining Supervisor" and replacing it with the phrase "authorized officer";

G. Amending paragraph (g) by removing from paragraph (g)(1) in the three places it appears the phrase "District Mining Supervisor" and replacing it with the phrase "authorized officer", by removing from paragraph (g)(1) the phrase "authorized officer" and replacing it with the phrase "responsible officer of the surface managing agency", by removing from paragraph (g)(1) the citation "30 CFR 211.11(a)(3)" and replacing it with the citation "§ 3482.2(a)(3) of this title", by removing from paragraph (g)(3) the phrase "District Mining Supervisor" and replacing it with the phrase "authorized officer" and by removing from paragraph (g)(4) the phrase "District Mining Supervisor" and replacing it with the phrase "authorized officer"; and

H. Amending paragraph (h) by removing from paragraph (h)(1) the phrase "District Mining Supervisor" and replacing it with the phrase "authorized officer", by removing from paragraph (h)(2) the phrase "30 CFR 211.20 through 30 CFR 211.25" and replacing it with the phrase "§ 3483.1 through § 3483.6 of this title".

Garrey E. Carruthers,
Assistant Secretary of the Interior.
September 12, 1983.

[FR Doc. 83-25331 Filed 9-15-83, 8:45 am]

Library

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

DEPT. OF INTERIOR
BUR. OF LAND MANAGEMENT
1983 OCT -3 AM 11:58
RECEIVED
MONTANA STATE OFFICE
BILLINGS, MONTANA

[Circular No. 2535]

43 CFR Part 1880

Financial Assistance, Local Governments; Payment in Lieu of Taxes Regulations

Under the authority of 31 U.S.C. 6901–6906, as amended, Part 1880, Group 1800, Subchapter A, Chapter II of Title 43 of the Federal Code of Regulations is amended as set forth below.

§ 1881.0–5 [Amended]

1. Section 1881.0–5(b)(1) is amended by adding immediately after the word "general" in the first line of the definition the word "local".

September 13, 1983.

Garrey E. Carruthers,

Assistant Secretary of the Interior.

[FR Doc. 83–25603 Filed 9–19–83; 8:45 am]

Published in 48 F.R. 42816, September 20, 1983 - Effective September 20, 1983

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

Minerals Management Service

43 CFR Parts 3260 and 3280

30 CFR Parts 270 and 271

[Circular No. 2536]

Geothermal Resources Operations—General; Redesignation of Regulations

Under the authority of Secretarial Order 3087, December 3, 1982, as amended on February 7, 1983 (48 FR 8983), and the statutory authorities enumerated at each part, Group 3200, Subchapter C, Chapter II of Title 43 of the Code of Federal Regulations is amended as set forth below.

1. 30 CFR Part 270 is redesignated as 43 CFR Part 3260 as shown in the following redesignation table:

REDESIGNATION TABLE

Old 30 CFR Part 270	New 43 CFR Part 3260
	Insert new part title—3260—Geothermal Resources Operations.
	Insert new subpart 3260—Geothermal resources operations—General.
270.1 (First sentence).	3260.0–1 Purpose.
270.1 (Second sentence).	3260.0–2 Policy.
	Insert new section 3260.0–3 Authority.
270.2	3260.0–5.
270.2–1	Insert as a note immediately after Part title.
	Insert new subpart 3261—Jurisdiction and responsibility.
270.10	3261.1.
270.11	3261.2.
270.12	3261.3.
270.13	3261.4.
270.14	3261.5.
270.15	3261.6.
270.16	3261.7.
270.17	3261.8.
	Insert new Subpart 3262—Requirements for Lessees.
270.30	3262.1.
270.31	3262.2.
270.32	3262.2–1.
270.33	3262.3.
270.34	3262.4.
270.34–1	3262.4–1.
270.35	3262.4–2.
270.36	3262.5.
270.37	3262.5–1.
270.38	3262.5–2.
270.39	3262.5–3.
270.40	3262.5–4.
270.41	3262.6.
270.42	3262.6–1.
270.43	3262.6–2.
270.44	3262.6–3.
270.45	3262.5–5.
270.46	3262.7.
270.47	3262.7–1.
270.48	3262.8.
270.50(b)	3262.9 Pilot operations or facility testing.
	Insert new Subpart 3263—Measurement of Production.
270.60	3263.1.
270.61	3263.2.
270.64	3263.3.
	Insert new Subpart 3264—Reports To Be Made by All Lessees.
270.70	3264.1.
270.71	3264.2.
270.71–1	3264.2–1.
270.72	3264.2–2.
270.73	3264.2–3.
270.74	3264.2–4.
270.74–1	3264.2–5.
270.76	Removed.
270.77	3264.3.
270.78	3264.4.
270.79	3264.5.
	Insert new Subpart 3265—Procedure in Case of Violation of the Regulations or Lease Terms.
270.80	3265.1.
	Insert new supart 3265—Appeals.
270.90	3266.1.

2. Section 3260.0–1, formerly the first sentence of 30 CFR 270.1, is revised to read:

§ 3260.0–1 Purpose.

The Geothermal Steam Act (30 U.S.C. 1001–1025) authorizes the Secretary of the Interior to prescribe rules and regulations applicable to operations conducted under leases granted pursuant to that Act, and for the development, conservation and utilization of geothermal steam and associated geothermal resources, the prevention of waste, the protection of the public interest and the protection of water quality and other environmental qualities.

3. Section 3260.0–2, formerly the second sentence of 30 CFR 270.1, is revised to read:

§ 3260.0–2 Policy.

The regulations in this part shall be administered by the Director, Bureau of Land Management.

4. Section 3260.0–3 is added to read as follows:

§ 3260.0–3 Authority.

These regulations are issued under the authority of the Geothermal Steam Act, as amended (30 U.S.C. 1001–1025) and Order Number 3087, dated December 3, 1982, as amended on February 7, 1983 (48 FR 8983), under which the Secretary consolidated and transferred the onshore minerals management functions of the Department, except mineral revenue functions and the leasing of restricted Indian lands, to the Bureau of Land Management.

5. Part 3260 is amended by inserting immediately after the part heading two "Notes" to read:

Note: The information collection requirements contained in Part 3260 have been approved by the Office of Management and Budget under 44 U.S.C. 3507 and assigned clearance numbers 1004–0132 and 1004–0141. The information is being collected to evaluate the technical feasibility and environmental impacts of geothermal operations on Federal lands. Clearance number 1004–0141 covers information required by section 3264.3 and is required to document exploration expenditures for which diligence credit is desired in accordance with section 3203.5. A response is required to obtain a benefit.

Note: There are many leases and agreements currently in effect, and which will remain in effect, involving Federal geothermal resources leases which specifically refer to the United States Geological Survey, USGS, Minerals Management Service, MMS, or Conservation Division. These leases and agreements may also specifically refer to various officers such as Supervisor, Conservation Manager, Deputy Conservation Manager, Minerals Manager, and Deputy Minerals Manager. In addition, many leases and agreements specifically refer to Title 30 CFR Part 270 or specific sections thereof. Those references must now be read in the context of Secretarial Order 3087 and now mean either the Bureau of Land Management or the Minerals Management Service as appropriate.

§ 3260.0–5 [Amended]

6. Section 3260.0–5, formerly 30 CFR 270.2, is amended as follows:

A. Paragraphs (a) through (d) are removed in their entirety;

B. Paragraphs (e) and (f) are redesignated as paragraphs (a) and (b), respectively;

C. Paragraphs (g), (h) and (i) are removed in their entirety;

D. Paragraphs (j) through (n) are redesignated as paragraphs (c), (d), (e), (f) and (g), respectively;

E. Paragraph (e), formerly paragraph (1), is amended by removing the phrase "Supervisor, with the prior approval of the Director, Minerals Management Service" and replacing it with the phrase "authorized officer, with the prior approval of the Director,";

Published in 48 F.R. 44787, September 30, 1983 – Effective September 30, 1983

F. Paragraph (o) is removed in its entirety; and

G. Paragraphs (p) through (w) are redesignated as paragraphs (h), (i), (j), (k), (l), (m), (n) and (o), respectively.

7. Section 3261.1, formerly 30 CFR 270.10, is revised to read:

§ 3261.1 Jurisdiction.

Drilling, production, construction, and operation of any facility for the utilization of geothermal resources and handling and measurement of production, and, in general, all operations conducted on a geothermal lease are subject to the regulations in this group. These operations are subject to the jurisdiction of the authorized officer for the area in which the leased lands are situated.

8. Section 3261.2, formerly 30 CFR 270.11, is revised to read:

§3261.1 Responsibility of authorized officer.

The authorized officer is authorized and directed to carry out the provisions of this part. The authorized officer shall require compliance with the terms of geothermal leases, with the regulations in this group and with the applicable statutes. The authorized officer shall act on all applications, requests, and notices required in this part. In executing the functions under this part, the authorized officer shall ensure that all permitted operations conform to the best practice and are conducted in a manner that protects the deposits of the leased lands and results in the maximum ultimate recovery and the beneficial utilization of geothermal resources, with minimum waste. The authorized officer shall also ensure that all permitted operations are consistent with the principles of the use of the lands for other purposes and the protection of the environment. As conditions in one area may vary widely from conditions in another area, the regulations in this part are intended to be general in nature. Detailed procedures hereunder in any particular area will be covered by GRO Orders. The requirements to be set forth in GRO Orders relating to surface resources or uses will be coordinated with the appropriate land management agency if other than BLM. The authorized officer may issue oral orders to govern lease operations, but such orders shall be confirmed in writing by the authorized officer as promptly as possible. The authorized officer may issue other orders and instructions to govern the development, method for production and the utilization of a deposit, field or area. Prior to issuance of GRO Orders, other written orders and instructions, or the approval of any plan of operation, the authorized officer shall consult with and receive comments from appropriate Federal and State agencies, lessees, operators and other interested parties. Before permitting operations to be commenced on the leased lands, the authorized officer shall determine if the lease is in good standing; whether the applicant is authorized to conduct the proposed operations; has filed an acceptable bond, and has, when requried by the regulations in this part, an approved plan of operations and/or plan of utilization, notice of intent, Sundry Notice or other appropriate permit.

§ 3261.3 [Amended]

9. Section 3261.3, formerly 30 CFR 270.12, is amended by:

A. Amending paragraph (a)(2) by removing the world "Supervisor" and replacting it with the phrase "authorized officer" and by amending paragraph (a)(3) by removing the citation "§ 270.80" and replacing it with the citation "§ 3265.1"; and

B. Amending paragraph (b) by removing in the two places it appears the world "Supervisor" and replacing it with the phrase "authorized officer", by removing the citation "§ 270.34–1 of this part" and replacing it with the citation "§ 3262.4–1 of this title", amending paragraph (b)(2) by removing the word "Supervisor" and replacing it with the world "authorized officer", amending paragraph (b)(3) by removing the word "Supervisor" and replacing it with the phrase "authorized officer" and amending paragraph (b)(4) by removing the citation "§ 270.79 of this part" and replacing it with the citation "§ 3264.5 of this title" and by removing the word "Supervisor" and replacing it with the phrase "authorized officer".

§ 3261.4 [Amended]

10. Section 3261.4, formerly 30 CFR 270.13, is amended by removing the word "Supervisor" and replacing it with the phrase "authorized officer".

§ 3261.5 [Amended]

11. Section 3261.5, formerly 30 CFR 270.14, is amended by removing in two places it appears the word "Supervisor" and replacing it with the phrase "authorized officer" and by removing the phrase "part and 43 CFR Group 3200;" and replacing it with the word "group;".

§ 3261.6 [Amended]

12. Section 3261.6, formerly 30 CFR 270.15, is amended by removing the word "Supervisor" and replacing it with the phrase "authorized officer".

§ 3261.7 [Amended]

13. Section 3261.7, formerly 30 CFR 270.16, is amended by removing the word "Supervisor" and replacing it with the phrase "authorized officer".

§ 3261.8 [Amended]

14. Section 3261.8, formerly 30 CFR 270.17, is amended by:

A. Amending paragraph (a) by removing the word "Supervisor" and replacing it with the phrase "authorized officer".

B. Amending paragraph (b) by removing the word "Supervisor" and replacing it with the phrase "authorized officer";

C. Amending paragraph (c) by removing the word "Supervisor" and replacing it with the phrase "authorized officer"; and

D. Amending paragraph (d) by removing the word "Supervisor" and replacing it with the phrase "authorized officer".

§ 3262.1 [Amended]

15. Section 3262.1, formerly 30 CFR 270.30, is amended by:

A. Amending paragraph (a) by removing the word "Supervisor" and replacing it with the phrase "authorized officer" and by removing the citation "§ 270.11" and replacing it with the citation "§ 3261.2 of this title"; and

B. Amending paragraph (c) by removing the word "Supervisor" and replacing it with the phrase "authorized officer".

§ 3262.2 [Amended]

16. Section 3262.2, formerly 30 CFR 270.31, is amended by:

A. Amending paragraph (a) by removing in the two places it appears the the word "Supervisor" and replacing it with the phrase "authorized officer"; and

B. Amending paragraph (b) by removing in the three places it appears the word "Supervisor" and replacing it with the phrase "authorized officer" and by removing the citation "§ 270.34–1 of this part" and replacing it with the citation "§ 3262.4–1 of this title" and by removing the citation "43 CFR Group 3200." and replacing it with the phrase "the regualtions in this group".

§ 3262.2–1 [Amended]

17. Section 3262.2–1, formerly 30 CFR 270.32, is amended by removing in the two places it appears the word "Supervisor" and replacing it with the phrase "authorized officer".

§ 3262.3 [Amended]

18. Section 3262.3, formerly 30 CFR 270.33, is amended by:

A. Amending paragraph (a) by removing in the two places it appears the word "Supervisor" and replacing it with the phrase "authorized officer" and by removing the citation "43 CFR 3204.5" and replacing it with the citation "§ 3203.8 of this title"; and

B. Amending paragraph (b) by removing the word "Supervisor" and replacing it with the phrase "authorized officer".

19. Section 3262.4, formerly 30 CFR 270.34, is amended by:

A. Revising the introductory paragraph to read:

§ 3262.4 Plan of operation.

"Except as otherwise provided in these regulations, a lessee, prior to commencing operations on the leased lands or on lands subject to an approved unit or cooperative agreement, shall obtain the approval of a plan of operation by the authorized officer. A plan of operation is not required for: Subsequent well operations, the construction of new production facilities, or the alteration of existing production facilities, unless specifically required by the authorized officer, exploration operations or casual use activities. However, unless a previously approved plan included a specific authorization for subsequent well operations, construction of new production facilities, alteration of existing production facilities or exploration operations, the lessee may not conduct such operations or activities without the authorized officer's prior approval. Before commencing a subsequent well operation, the construction of a new production facility or the alteration of an existing production facility, the lessee shall, as a minimum, obtain the authorized officer's approval of a permit or of a sundry notice, whichever is appropriate. Before commencing exploration operations, the lessee shall obtain the authorized officer's approval of a notice of intent. When a plan of operation is required by the regulations in this part, it shall be filed in triplicate with the authorized officer and shall include:

* * * * *

B. Amending paragraph (i) by removing the word "Supervisor" and replacing it with the phrase "authorized officer"; and

C. Amending the closing paragraph by removing in the four places it appears the word "Supervisor" and replacing it with the phrase "authorized officer" and by removing the citation "§ 270.79 of this part." and replacing it with the citation "§ 3264.5 of this title."

§ 3264.4-1 [Amended]

20. Section 3264.4–1, formerly 30 CFR 270.34–1, is amended by:

A. Amending the opening paragraph by removing the word "Supervisor" in the three places it appears and replacing it with the phrase "authorized officer";

B. Amending paragraph (a) by removing the citation "§ 270.71–1 of this part" and replacing it with the citation "§ 3264.2–1 of this title";

C. Amending paragraph (c) by removing the word "Supervisor" and replacing it with the phrase "authorized officer";

D. Amending paragraph (i) by removing the word "Supervisor" and replacing it with the phrase "authorized officer";

E. Amending paragraph (j) by removing the word "Supervisor" and replacing it with the phrase "authorized officer";

F. Amending paragraph (k) by removing the citation "Title 43 Group 3200." and replacing it with the phrase "this group."; and

G. Amending the final paragraph of the section by removing the citation "§ 270.79 of this part" and replacing it with the citation "§ 3264.5 of this title" and by removing in the two places it appears the word "Supervisor" and replacing it with the phrase "authorized officer".

§ 3262.4-2 [Amended]

21. Section 3262.4–2, formerly 30 CFR 270.35, is amended by removing in the six places it appears the word "Supervisor" and replacing it with the phrase "authorized officer".

§ 3262.5-1 [Amended]

22. Section 3262.5–1, formerly 30 CFR 270.37, is amended by:

A. Amending paragraph (a) by removing the word "Supervisor" and replacing it with the phrase "authorized officer";

B. Amending paragraph (b) by removing the word "Supervisor" and replacing it with the phrase "authorized officer"; and

C. Amending paragraph (c) by removing in the two places it appears the word "Supervisor" and replacing it with the phrase "authorized officer".

§ 3262.5-2 [Amended]

23. Section 3262.5–2, formerly 270.38, is amended by:

A. Amending paragraph (a) by removing in the two places it appears the word "Supervisor" and replacing it with the phrase "authorized officer"; and

B. Amending paragraph (b) by removing the word "Supervisor" and replacing it with the phrase "authorized officer".

§ 3262.5-3 [Amended]

24. Section 3262.5–3, formerly 30 CFR 270.39, is amended by removing in the two places it appears the word "Supervisor" and replacing it with the phrase "authorized officer".

§ 3262.6 [Amended]

25. Section 3262.6, formerly 30 CFR 270.41, is amended by removing in the two places it appears the word "Supervisor" and replacing it with the phrase "authorized officer".

§ 3262.6-1 [Amended]

26. Section 3262.6–1, formerly 30 CFR 270.42, is amended by removing the word "Supervisor" and replacing it with the phrase "authorized officer".

§ 3262.6-2 [Amended]

27. Section 3262.6–2, formerly 30 CFR 270.43, is amended by removing the word "Supervisor" and replacing it with the phrase "authorized officer".

§ 3262.6-3 [Amended]

28. Section 3262.6–3, formerly 30 CFR 270.44, is amended by removing in the two places it appears the word "Supervisor" and replacing it with the phrase "authorized officer".

§ 3262.5-5 [Amended]

29. Section 3262.5–5, formerly 30 CFR 270.45, is amended by removing in the four places it appears the word "Supervisor" and replacing it with the phrase "authorized officer".

§ 3262.7 [Amended]

30. Section 3262.7, formerly 30 CFR 270.46, is amended by removing in the word "Supervisor" and replacing it with the phrase "authorized officer".

§ 3262.8 [Amended]

31. Section 3262.8, formerly 30 CFR 270.48, is amended by removing in the two places it appears the word "Supervisor" and replacing it with the phrase "authorized officer".

32. Section 3262.9, formerly 30 CFR 270.50(b), is revised to read:

§ 3262.9 Pilot operations or facility testing.

With respect to the pilot operations or facility testing of those utilization facilities in accordance with the provisions of 30 U.S.C. 1012, the authorized officer may approve the suspension, waiver or reduction of the royalty obligation for a period not to exceed 120 days of net operation upon application therefor. No form of relief from the royalty requirements of a lease

will be approved where the geothermal resources and/or the output of the facility would be used commercially or sold during said period. In addition, no application in this respect will be approved in the absence of a determination by the authorized officer that the payment of royalty during this period would affect adversely the development and recovery of the resources and that the action would be in the interest of conservation, would encourage the greatest ultimate recovery of geothermal resources and is necessary in order to promote development or to ensure that the lease can be operated successfully under the lease terms. Each application for relief hereunder shall be filed in triplicate with the authorized officer and, as a minimum shall:

(a) Indentify the facility, its location and the facility operator;

(b) Provide the serial number(s) of the lease(s) from which the geothermal resources are produced and the name(s) of the current lessee(s) and/or operator(s);

(c) Contain the number and location of each well which will be utilized during the pilot or testing operation of the facility and the estimated daily volumes of geothermal resources to be produced of each such well;

(d) Furnish a detailed statement of the estimated costs associated with the pilot or testing operations; and

(e) Supply other appropriate documentation to support the contention that relief from royalty requirements of the lease would be in accordance with the provisions of 30 U.S.C. 1012, as set forth in the preceding paragraph.

§ 3263.1 [Amended]

33. Section 3263.1, formerly 30 CFR 270.60, is amended by removing in the two places it appears the word "Supervisor" and replacing it with the phrase "authorized officer".

§ 3263.2 [Amended]

34. Section 3263.2, formerly 30 CFR 270.61, is amended by removing in the two places it appears the word "Supervisor" and replacing it with the phrase "authorized officer".

§ 3263.3 [Amended]

35. Section 3263.3, formerly 30 CFR 270.64, is amended by removing the word "Supervisor" and replacing it with the phrase "authorized officer".

§ 3264.1 [Amended]

36. Section 3264.1, formerly 30 CFR 270.70, is amended by:

A. Amending paragraph (a) by removing in the two places it appear the word "Supervisor" and replacing it with the phrase "authorized officer"; and

B. Amending paragraph (b) by removing in word "Supervisor" and replacing it with the phrase "authorized officer".

§ 3264.2 [Amended]

37. Section 3264.2(a), formerly 30 CFR 270.71(a), is amended by removing in the two places it appears the word "Supervisor" and replacing it with the phrase "authorized officer".

§ 3264.2-1 [Amended]

38. Section 3264.2–1, formerly 30 CFR 270.71–1, is amended by:

A. Amending paragraph (a) by removing in the two places it appears the word "Supervisor" and replacing it with the phrase "authorized officer", by removing the citation "§ 270.34 of this part" and replacing it with the citation "§ 3262.4–1 of this title" and by removing the phrase "part, 43 CFR Group 3200," and replacing it with the word "group";

B. Amending paragraph (b) by removing in the two places it appears the word "Supervisor" and replacing it with the phrase "authorized officer", by removing from the third sentence the citation "§ 270.34–1 of this part" and replacing it with the citation "§ 3262.4–1 of this title", by removing from the end of the last sentence the phrase "Authorized Officer pursuant to 43 CFR Group 3200." and replacing it with the phrase "responsible officer of the surface managing agency pursuant to the regulations in this group.";

C. Amending paragraph (c) by removing from the two places it appears the word "Supervisor and replacing it with the phrase "authorized officer", by removing from the second sentence the citation "43 CFR Group 3200" and replacing it with the phrase "the regulations in this group,", by removing the citation "§ 270.34–1 of this part." and replacing it with the citation "§ 3262.4–1 of this title." and by removing from the last sentence the phrase "part, 43 CFR Group 3200," and replacing it with the word "group";

D. Paragraph (d) is amended by removing the word "Supervisor" and replacing it with the phrase "authorized officer" and by removing from subparagraph (d)(5) the word "Supervisor" and replacing it with the phrase "authorized officer";

E. Revising paragraph (e) to read:

§ 3264.2-1 Application for utilization permit.

(e) Except as permitted by the access provisions of the lease, transmission facilities (lines and substations) and roads or pipelines located on off-lease Federal surface will require that appropriate permits be obtained. In the event that a Federal agency, other than the Bureau of Land Management, has jurisdiction over all or a portion of the affected off-lease Federal surface, the necessary right-of-way permits must be obtained from that agency.

* * * * *

F. Amending paragraph (g) by removing the word "Supervisor" and replacing it with the phrase "authorized officer"; and

G. Amending paragraph (h) by removing in the two places it appears the word "Supervisor" and replacing it with the phrase "authorized officer".

§ 3264.2-2 [Amended]

39. Section 3264.2–2, formerly 30 CFR 270.72, is amended by:

A. Amending paragraph (a) by removing in the two places it appears the word "Supervisor" and replacing it with the phrase "authorized officer";

B. Amending paragraph (b) by removing in the two places it appears the phrase "Supervisor or his representative" and replacing it with the phrase "authorized officer";

C. Amending paragraph (c) by removing the word "Supervisor" and replacing it with the phrase "authorized officer";

D. Amending paragraph (d) by removing the word "Supervisor" and replacing it with the phrase "authorized officer";

E. Amending paragraph (e) by removing the word "Supervisor" and replacing it with the phrase "authorized officer";

F. Amending paragraph (f) by removing the word "Supervisor" and replacing it with the phrase "authorized officer"; and

G. Amending paragraph (g) by removing the word "Supervisor" and replacing it with the phrase "authorized officer";

§ 3264.2-3 [Amended]

40. Section 3264.2–3, formerly 30 CFR 270.73, is amended by removing the word "Supervisor" and replacing it with the phrase "authorized officer";

§ 3264.2-4 [Amended]

41. Section 3264.2–4, formerly 30 CFR 270.74, is amended by:

A. Amending the introductory paragraph by removing in the two places it appears the word "Supervisor" and replacing it with the phrase "authorized officer"; and

B. Amending paragraph (f) by removing the word "Supervisor" and

replacing it with the phrase "authorized officer";

§ 3264.2-5 [Amended]

42. Section 3264.2-5, formerly 30 CFR 270.74-1, is amended by removing from the introductory paragraph in the two places it appears the word "Supervisor" and replacing it with the phrase "authorized officer";

§ 3264.3 [Amended]

43. Section 3264.3, formerly 30 CFR 270.77, is amended by removing the word "Supervisor" and replacing it with the phrase "authorized officer";

§ 3264.4 [Amended]

44. Section 3264.4, formerly 30 CFR 270.78, is amended by:

A. Amending paragraph (a) by removing the word "Supervisor" and replacing it with the phrase "authorized officer";

B. Amending paragraph (b) by removing in the two places it appears the word "Supervisor" and replacing it with the phrase "authorized officer"; and by removing from paragraph (b)(6) the word "Supervisor" and replacing it with the phrase "authorized officer";

C. Amending paragraph (c) by removing the word "Supervisor" and replacing it with the phrase "authorized officer"; and

D. Amending paragraph (d) by removing the word "Supervisor" and replacing it with the phrase "authorized officer".

45. Section 3265.1, formerly 30 CFR 270.80, is amended by revising paragraph (a) to read:

§ 3265.1 Noncompliance with regulations or lease terms.

(a) Whenever a lessee or anyone acting under his/her authority fails to comply with the provisions of the regulations or lease terms, the authorized officer shall give the lessee notice to remedy any defaults or violations. Failure by the lessee to perform or commence the necessary remedial action pursuant to the notice may result in a shut down of operations and may also result in cancellation of the lease pursuant to § 3244.3 of this title."

* * * * *

22. Section 3266.1, formerly 30 CFR 270.90, is revised to read:

§ 3266.1 Appeals.

Appeals from final orders or decisions issued under the regulations in this part shall be made in the manner provided in Part 4 of this title.

23. The authority citation for new Part 3260 is added to read as follows:

Authority: Geothermal Steam Act as amended (30 U.S.C. 1001-1025) and Order No. 3087 dated Dec. 3, 1982, as amended on Feb. 7, 1983 [48 FR 8983].

II

1. 30 CFR Part 271 is redesignated as 43 CFR Part 3280 as shown in the following redesignation table:

REDESIGNATION TABLE

Old 30 CFR Part 271	New 43 CFR Part 3280
	Insert new part title—Part 3280 Geothermal Resources Unit Agreements—Unproven Areas.
	Insert new subpart 3180—Goethermal resources unit agreements—General.
271.1 (First sentence).	3280.0-1 Purpose.
271.1 (Second sentence).	3280.0-2 Policy.
	Insert new section 3280.0-3 Authority.
271.2	3280.0-5.
271.3	3281.2.
	Insert new subpart 3281—Application for unit agreement.
271.4	3281.1.
271.5	3281.4.
	Insert new subpart 3282—Qualification of unit operator.
271.6	3282.1.
271.7	3281.3.
	Insert new subpart 3283—Filing and approval of documents.
271.8(a)	3283.2-1 Approval of executed agreement.
271.8 (b), (c), (d)	3283.2 Executed agreement.
271.9(a)	3283.1 Filing of documents and number of counterparts.
271.9(b)	3283.4 Plan of development.
271.9(c)	3283.3 Participating area.
271.9(d)	3283.5 Return of approved documents.
	Insert new subpart 3284—Bonds.
271.10	3284.1.
	Insert new subpart 3285—Appeals.
271.11	3285.1.
	Insert new subpart 3286—Model forms.
271.12	3286.1 Model unit agreement—unproven areas.
271.13	3286.1-1 Model Exhibit "A."
271.14	3286.1-2 Model Exhibit "B."
271.15	3286.2 Model unit bond.
271.16	3286.3 Model designation of successor operator.
271.17	3286.4 Model change of operator by assignment.

2. Part 3280 is amended by inserting immediately after the part heading a "NOTE" to read:

Note.—Many existing unit agreements specifically refer to the United States Geological Survey, USGS, Minerals Management Service, MMS, Supervisor, Conservation Manager, Deputy Conservation Manager, Minerals Manager and Deputy Minerals Manager in the body of the agreements, as well as reference to Title 30 CFR Part 270 or specific sections thereof. Those references must now be read in the context of the provisions of Secretarial Order 3087 and now mean the Bureau of Land Management or the Minerals Management Service as appropriate.

3. Section 3280.0-1, formerly the first sentence of 30 CFR 271.1, is revised to read:

§ 3280.0-1 Purpose.

The regulations in this part prescribe the procedure to be followed and the requirements to be met by holders of Federal geothermal leases and their representatives who wish to unite with each other, or jointly or separately with others, in collectively adopting and operating under a cooperative or unit plan for the development of any geothermal resources pool, field or like area, or any part thereof.

4. Section 3280.0-2, formerly the second sentence of 30 CFR 271.1, is revised to read:

§ 3280.0-2 Policy.

Cooperative or unit agreements for the development of any geothermal resources pool, field or like area, or any part thereof, may be initiated by lessees, or where such agreements are deemed necessary in the interest of conserving natural resources, they may be required by the Director.

5. A new § 3280.0-3 is added to read:

§ 3280.0-3 Authority.

These regulations are issued under the authority of the Geothermal Steam Act of 1970, as amended (30 U.S.C. 1001-1025) and Order Number 3087, dated December 3, 1982, as amended February 7, 1983 (48 FR 8983), under which the Secretary consolidated and transferred the onshore minerals management functions of the Department, except mineral revenue functions and the leasing of restricted Indian lands, to the Bureau of Land Management.

§ 3280.0-5 [Amended]

6. Section 3280.0-5, formerly 30 CFR 271.2, is amended by:

A. Removing paragraph (d) in its entirety;

B. Renumbering paragraphs (e) through (j) as paragraphs (d), (e), (f), (g), (h) and (i), respectively; and

C. Removing paragraphs (k), (l), (m) and the note at the end thereof in their entirety.

§ 3281.1 [Amended]

7. Section 3281.1, formerly 30 CFR 271.4, is amended by removing in the two places it appears the citation "§ 271.12" and replacing it with the citation "§ 3286.1 of this title" and by removing in the two places it appears the citation "§ 271.3" and replacing it with the citation "§ 3281.2 of this title".

§ 3281.2 [Amended]

8. Section 3281.2, formerly 30 CFR 271.3, is amended by removing the word "Supervisor" and replacing it with the phrase "authorized officer".

§ 3281.3 [Amended]

9. Section 3281.3, formerly 30 CFR 271.7, is amended by removing the word "Supervisor" and replacing it with the phrase "authorized officer".

§ 3282.1 [Amended]

10. Section 3282.1, formerly 30 CFR 271.6, is amended by removing in the two places it appears the word "Supervisor" and replacing it with the phrase "authorized officer".

11. Section 3283.1, formerly 30 CFR 271.9(a), is revised to read:

§ 3283.1 Filing of documents and number of counterparts.

All proposals and supporting papers, instruments and documents submitted under this part shall be filed with the authorized officer, unless otherwise provided in this part or otherwise instructed by the Director.

12. Section 3283.2, formerly 30 CFR 271.8 (b), (c) and (d), is revised to read:

§ 3283.2 Executed agreement.

(a) Where a duly executed agreement is submitted for Departmental approval, a minimum of 6 signed counterparts shall be filed. The same number of counterparts shall be filed for documents supplementing, modifying or amending an agreement, including change of operator, designation of a new operator and notice of surrender, relinquishment or termination.

(b) The address of each signatory party to the agreement shall be inserted below the party's signature. Each signature shall be attested to by at least 1 witness, if not notarized. Corporate or other signatures made in a representative capacity shall be accompanied by evidence of the authorization of the signatories to act unless such evidence is already a matter of record in the Bureau of Land Management. (The parties may execute any number of counterparts of the agreement with the same force and effect as if all parties signed the same document, or may execute a ratification of consent in a separate instrument with like force and effect.)

(c) Any modification of an approved agreement shall require approval of the Secretary or his/her duly authorized representative under procedures similar to those cited in § 3283.2–1 of this title.

13. Section 3283.2–1, formerly 30 CFR 271.8(a), is revised to read:

§ 3283.2–1 Approval of executed agreement.

A duly executed unit or cooperative agreement shall be approved by the Secretary or his/her duly authorized representative upon a determination that such agreement is necessary or advisable in the public interest and is for the purpose of properly conserving the natural resources, taking into account the environmental consequences of the action. Such approval shall be incorporated in a certificate appended to the agreement. No such agreement shall be approved unless at least 1 of the parties is a holder of a Federal lease embracing lands being committed to the agreement and unless the parties signatory to the agreement hold sufficient interests in the area to give effective control of operations therein.

14. Section 3283.3, formerly 30 CFR 271.9(c), is revised to read:

§ 3283.3 Participating area.

Each application for approval of a participating area, or revision thereof, shall be accompanied by 3 copies of a substantiating geologic and engineering report, structure contour map(s), cross-section or other pertinent data.

15. Section 3283.4, formerly 30 CFR 271.9(b), is revised to read:

§ 3283.4 Plan of development.

Plans of development and operation, plans of further development and operation and proposed participating areas and revisions thereof shall be submitted in quadruplicate.

16. Section 3283.5, formerly 30 CFR 271.9(d), is revised to read:

§ 3283.5 Return of approved documents.

All instruments or documents other than plans of development and operation, plans of further development and operation and proposed participating areas and revisions thereof submitted for approval shall be submitted for approval in sufficient number to permit the approving official to return at least 1 approved counterpart.

§ 3284.1 [Amended]

17. Section 3284.1, formerly 30 CFR 271.10, is amended by removing the word "Supervisor" and replacing it with the word "authorized officer" and by removing the citation "§ 271.15." and replacing it with the citation "§ 3286.2 of the title."

§ 3285.1 [Amended]

18. Section 3285.1, formerly 30 CFR 271.11, is amended by removing the citation "30 CFR Part 290." and replacing it with the citation "Part 4 of this title."

19. Section 3286.1, formerly 30 CFR 271.12, is amended by:

A. Revising the section heading to read:

§ 3286.1 Model Unit agreement—unproven areas.

B. Amending Article II, section 2.1, by removing paragraphs (g) and (h) in their entirety and replacing them with new paragraphs (g) and (h) to read:

Article II—Definitions

* * * * *

(g) *Director.* The Director of the Bureau of Land Management.

(h) *Authorized Officer.* Any person authorized by law or by lawful delegation of authority in the Bureau of Land Management to perform the duties described.

* * * * *

C. Amending Article III, section 3.4, by removing in the two places it appears the word "Supervisor" and replacing it with the phrase "authorized officer";

D. Amending Article IV, sections 4.1(b), (c) and (d), by removing the word "Supervisor" and replacing it with the phrase "authorized officer" and by amending sections 4.6 and 4.8 by removing the word "Supervisor" and replacing it with the phrase "authorized officer";

E. Amending Article VII by amending section 7.1 by removing the word "Supervisor" and replacing it with the phrase "authorized officer" and by amending section 7.3 by removing the word "Supervisor" and replacing it with the phrase "authorized officer";

F. Amending Article VIII, section 8.3(b), by removing the word "Supervisor" and replacing it with the phrase "authorized officer";

G. Amending Article IX, section 9.6 by removing the word "Supervisor" and replacing it with the phrase "authorized officer";

H. Amending Article X by amending section 10.1 by removing the word "Supervisor" and replacing it with the phrase "authorized officer" and by amending section 10.4 by removing the word "Supervisor" and replacing it with the phrase "authorized officer";

I. Amending Article XI by amending section 11.1 by removing the word "Supervisor" and replacing it with the phrase "authorized officer", by amending section 11.2 by removing the word "Supervisor" and replacing it with the phrase "authorized officer", by amending section 11.4 by removing in the two places it appears the word "Supervisor" and replacing it with the phrase "authorized officer", by amending section 11.5 by removing the word "Supervisor" and replacing it with the phrase "authorized officer", by amending section 11.6 by removing the word "Supervisor" and replacing it with the phrase "authorized officer", by amending section 11.7 by removing in the two places it appears the word

"Supervisor" and replacing it with the phrase "authorized officer", by amending section 11.8 by removing in the two places it appears the word "Supervisor" and replacing it with the phrase "authorized officer";

J. Amending Article XII by amending section 12.1 by removing in the two places it appears the word "Supervisor" and replacing it with the phrase "authorized officer", by amending section 12.2 by removing in the two places it appears the word "Supervisor" and replacing it with the phrase "authorized officer", by amending section 12.3 by removing the word "Supervisor" and replacing it with the phrase "authorized officer" and by amending section 12.4 by removing the word "Supervisor" and replacing it with the phrase "authorized officer";

K. Amending Article XIV by amending section 14.6 by removing the word "Supervisor" and replacing it with the phrase "authorized officer";

L. Amending Article XVI by amending section 16.1 by removing the word "Supervisor" and replacing it with the phrase "authorized officer";

M. Amending Article XVIII by amending section 18.2 by removing the word "Supervisor" and replacing it with the phrase "authorized officer";

N. Amending Article XXI by amending section 21.3 by removing the word "Supervisor" and replacing it with the phrase "authorized officer";

O. Amending Article XXV by amending section 25.1 By removing in the two places it appears the word "Supervisor" and replacing it with the phrase "authorized officer"and by amending section 25.5 by removing the word "Supervisor" and replacing it with the phrase "authorized officer"; and

P. Amending Article XXVIII by amending section 28.2 by removing the word "Supervisor" and replacing it with the phrase "authorized officer";

20 Section 3286.1–1, formerly 30 CFR 271.13, is amended by revising the section heading to read:

§ 3286.1–1 Model Exhibit 'A'.

21. Section 3286.1–2, formerly 30 CFR 271.14, is amended by:

A. Revising the Section heading to read:

§ 3286.1–2 Model Exhibit 'B'.

B. Removing the sentence "3 Patented tracts 1,951.20 acres or 19.04% of unit area." at the end of the table and replacing it with the sentence "4 Patented tracts 1,951.20 acres or 19.04% of unit area."

22. Section 3286.2, formerly 30 CFR 271.15, is amended by revising the section heading to read:

§ 3286.2 Model unit bond.

23. Section 3286.3, formerly 30 CFR 271.16, is amended by:

A. Revising the section heading to read:

§ 3286.3 Model designation of successor operator.

B. Removing the language under the signature line at the end of the form and replacing it with "Authorized Officer, Bureau of Land Management."

24. Section 3286.4, formerly 30 CFR 271.17, is amended by:

A. Revising the section heading to read:

§ 3286.4 Model change of operator by assignment.

B. Removing the language under the signature line at the end of the form and replacing it with "Authorized Officer, Bureau of Land Management."

25. The authority citation for new Part 3280 is added as follows:

Authority: Geothermal Steam Act of 1970, as amended (30 U.S.C. 1001–1025) and order No. 3087, dated Dec. 3, 1982, as amended Feb. 7, 1983 (48 FR 8983).

Garrey E. Carruthers,

Assistant Secretary of the Interior.

September 26, 1983.

[FR Doc. 83–26840 Filed 9–29–83; 8:45 am]

"Supervisor" and replacing it with the phrase "authorized officer", by amending section 11.8 by removing in the two places it appears the word "Supervisor" and replacing it with the phrase "authorized officer";

J. Amending Article XII by amending section 12.1 by removing in the two places it appears the word "Supervisor" and replacing it with the phrase "authorized officer", by amending section 12.2 by removing in the two places it appears the word "Supervisor" and replacing it with the phrase "authorized officer", by amending section 12.3 by removing the word "Supervisor" and replacing it with the phrase "authorized officer" and by amending section 12.4 by removing the word "Supervisor" and replacing it with the phrase "authorized officer";

K. Amending Article XIV by amending section 14.6 by removing the word "Supervisor" and replacing it with the phrase "authorized officer";

L. Amending Article XVI by amending section 16.1 by removing the word "Supervisor" and replacing it with the phrase "authorized officer";

M. Amending Article XVIII by amending section 18.2 by removing the word "Supervisor" and replacing it with the phrase "authorized officer";

N. Amending Article XXI by amending section 21.3 by removing the word "Supervisor" and replacing it with the phrase "authorized officer";

O. Amending Article XXV by amending section 25.1 By removing in the two places it appears the word "Supervisor" and replacing it with the phrase "authorized officer"and by amending section 25.5 by removing the word "Supervisor" and replacing it with the phrase "authorized officer"; and

P. Amending Article XXVIII by amending section 28.2 by removing the word "Supervisor" and replacing it with the phrase "authorized officer";

20 Section 3286.1–1, formerly 30 CFR 271.13, is amended by revising the section heading to read:

§ 3286.1–1 Model Exhibit 'A'.

21. Section 3286.1–2, formerly 30 CFR 271.14, is amended by:

A. Revising the Section heading to read:

§ 3286.1–2 Model Exhibit 'B'.

B. Removing the sentence "3 Patented tracts 1,951.20 acres or 19.04% of unit area." at the end of the table and replacing it with the sentence "4 Patented tracts 1,951.20 acres or 19.04% of unit area."

22. Section 3286.2, formerly 30 CFR 271.15, is amended by revising the section heading to read:

§ 3286.2 Model unit bond.

23. Section 3286.3, formerly 30 CFR 271.16, is amended by:

A. Revising the section heading to read:

§ 3286.3 Model designation of successor operator.

B. Removing the language under the signature line at the end of the form and replacing it with "Authorized Officer, Bureau of Land Management."

24. Section 3286.4, formerly 30 CFR 271.17, is amended by:

A. Revising the section heading to read:

§ 3286.4 Model change of operator by assignment.

B. Removing the language under the signature line at the end of the form and replacing it with "Authorized Officer, Bureau of Land Management."

25. The authority citation for new Part 3280 is added as follows:

Authority: Geothermal Steam Act of 1970, as amended (30 U.S.C. 1001–1025) and order No. 3087, dated Dec. 3, 1982, as amended Feb. 7, 1983 (48 FR 8983).

[FR Doc. 83–26840 Filed 9–29–83; 8:45 am]
BILLING CODE 4310–84–M

Bureau of Land Management

Minerals Management Service

43 CFR Part 3570

30 CFR Part 200

[Circular No. 2537]

Operating Procedures for Exploration, Development and Production; Final Rulemaking Redesignating Certain Provisions Covering Forms From Title 30 Part 200 of the Code of Federal Regulations to Title 43 Part 3570

AGENCY: Bureau of Land Management, Interior.

ACTION: Final rulemaking.

SUMMARY: On December 3, 1982, the Secretary of the Interior issued Order No. 3087, which was amended on February 7, 1983, transferring all onshore management functions of the Minerals Management Service, not relating to royalty management, to the Bureau of Land Management. Notice of this transfer of management functions was published in the Federal Register of March 2, 1983 (48 FR 8982). In accordance with that order and the above notice, certain sections of the regulations in 30 CFR Part 200 are being transferred to 43 CFR Part 3570.

This notice redesignates the appropriate sections of 30 CFR Part 200 as 43 CFR Part 3570 and makes necessary administrative amendments to bring the redesignated sections into conformance with the language of Title 43 of the Code of Federal Regulations.

EFFECTIVE DATE: September 30, 1983.

ADDRESS: Any suggestions or inquiries should be sent to: Director (660), Bureau of Land Management, 1800 C Street NW., Washington, D.C. 20240.

FOR FURTHER INFORMATION CONTACT: Paul Sternberg, (202) 860–7506.

The principal author of this final rulemaking is Harry Moritz, Division of Solid Mineral Operations, Bureau of Land Management, assisted by the staff of the Office of Legislation and Regulatory Management, Bureau of Land Management.

Because this final rulemaking is an administrative action reflecting actions that have already occurred and that have no additional impacts on leasable mineral exploration and mining operations, it has been determined that no action needs to be taken with regard to a determination under either the provisions of section 102(2)(C) of the National Environmental Policy Act (42 U.S.C. 4332(2)(C)) or the provisions of Executive Order 12291.

There are no additional information collection requirements contained in this final rulemaking that require clearance by the Office of Management and Budget under 44 U.S.C. 3507.

This final rulemaking is administrative and has no additional impacts on the public. Further, it reflects actions that have already occurred. It will, therefore, be effective upon publication.

List of Subjects in 43 CFR Part 3570

Environmental protection, Government contracts, Mineral royalties, Mines, Public lands—mineral resources, Reporting requirements.

Under the authority of Order No. 3087 issued by the Secretary of the Interior on December 3, 1982, as amended on February 7, 1983, which transferred all onshore management functions of the Minerals Management Service, not relating to royalty management, to the Bureau of Land Management, 30 CFR Part 231 is redesignated as Part 3570, Group 3500, Subchapter C, Chapter II of Title 43 of the Code of Federal Regulations and is amended as set forth below.

Garrey E. Carruthers,

Assistant Secretary of the Interior.

[FR Doc. – Filed —; 8:45 am]
BILLING CODE —

§ 2570.0–9 [Amended]

Section 2570.0–9, formerly 30 CFR 231.1, is amended by removing in its entirety the cross reference that appears at the end of 30 CFR 231.1.

§ 3571.1 [Amended]

2. Section 3571.1, formerly 30 CFR 231.4, is amended by:

A. Amending paragraph (e) by removing the citation "Parts 55, 56, or 57, Chapter I of this Title" and replacing it with the citation "30 CFR Parts 55, 56 or 57"; and

B. Revising paragraph (f) to read:

* * * * *

(f) Lessees and permittees shall submit the reports required by 25 CFR Parts 211 and 212, the requirements of § 3571.1–1 of this title and part 23 of this title.

3. A new § 3571.1–1, formerly 30 CFR 200.1 (b), (c), (d), (e) and (f), is added to read as follows:

§ 3571.1–1 Forms and reports.

Under regulations, the following reports are to be filed on the forms listed:

(a) *Potassium and sodium.* (1) Production reports on potassium and sodium prospecting permits on form 9–[illegible]arlsbad, New Mexico; 9–128c, Salt [illegible]ity, Utah; 9–129d, all other districts. These forms require information each calendar quarter relating to prospecting operations, including the nature thereof, extent, cost and amount removed for experimentation and research. (See § 3470.0–2(b) of this title)

(2) Production and royalty reports on potassium and sodium leases on form 9–128a. This form requires information each month relating to the output from the leased lands, the amount in storage, the amount disposed of, unit and total value and royalty thereon. (See § 3470.0–2(b) of this title)

(3) Annual production reports on potassium and sodium leases on form 9–128B. This form requires information relating to the output from the leased lands, the amount in storage, the amount disposed of and the gross value thereof, total amount of products and cost of production. (See § 3470.0–2(b) of this title)

(b) *Phosphate.* (1) Production and royalty reports on phosphate leases on form 9–368. This form requires information each calendar quarter relating to the amount of phosphate rock [illegible]d, its character and quality, the amount in storage, products and by-products disposed of, unit gross value and royalty. (See § 3470.0–2(b) of this title)

(2) Annual reports on phosphate leases on form 9–369. This form requires information on the output from leased lands, the amount in storage, the amount disposed of and gross value thereof, total amount of products and cost of production. (See § 3470.0–2(b) of this title)

(c) *Silica sands.* Production and royalty reports on silica sand leases on form 9–1146. This form requires information each calendar quarter on the production from leased lands, unit and gross value at point of shipment to market and royalty. (See § 3470.0–2(b) of this title)

(d) *Oil shale and sulphur.* Production and royalty reports on the above-described potassium and sodium forms.

(e) *Logs of prospect bore holes for potassium, sodium, phosphate, silica sands, sulphurs and oil shale on form* 9–1147. This form requires, not later than 15 days after the completion of each bore hole, a complete and accurate log and history, in chronological order, of all operations conducted on the bore hole. (See § 3470.0–2(b) of this title)

§ 3574.4 [Amended]

4. Section 3574.4(b), formerly 30 CFR 231.34(b), is amended by removing the citation "Part 57, Chapter 1 of this Title" and replacing it with the citation "30 CFR Part 57".

§ 3577.1 [Amended]

5. Section 3577.1, formerly 30 CFR 231.60, is amended by removing from the cross reference following that section the citation "Part 200" and replacing it with the citation "§ 3571.1–1 of this title".

§ 3577.2 [Amended]

6. Section 3577.2(a)(1)(iii), formerly 30 CFR 231.61(a)(1)(iii), is amended by removing the phrase "Mining Supervisor" and replacing it with the phrase "authorized officer".

PART 200—[REMOVED]

7. 30 CFR Part 200 is removed in its entirety.

[FR Doc. 83–26857 Filed 9–29–83; 8:45 am]

BILLING CODE 4310–84–M

FEDERAL EMERGENCY MANAGEMENT AGENCY

44 CFR Part 64

[Docket No. FEMA 6562]

Suspension of Community Eligibility Under the National Flood Insurance Program

AGENCY: Federal Emergency Management Agency (FEMA).

ACTION: Final rule.

SUMMARY: This rule lists communities, where the sale of flood insurance has been authorized under the National Flood Insurance Program (NFIP), that are suspended on the effective dates listed within this rule because of noncompliance with the flood plain management requirements of the program. If FEMA receives documentation that the community has adopted the required flood plain management measures prior to the effective suspension date given in this rule, the suspension will be withdrawn by publication in the Federal Register.

EFFECTIVE DATES: The third date ("Susp.") listed in the fourth column.

FOR FURTHER INFORMATION CONTACT: Richard W. Krimm, Assistant Associate Director Office of Natural and Technological Hazards Programs (202) 287–0176, 500 C Street, Southwest, Donohoe Building—Room 506, Washington, D.C. 20472.

SUPPLEMENTARY INFORMATION: The National Flood Insurance Program (NFIP), enables property owners to purchase flood insurance at rates made reasonable through a Federal subsidy. In return, communities agree to adopt and administer local flood plain management measures aimed at protecting lives and new construction from future flooding. Section 1315 of the National Flood Insurance Act of 1968, as amended (42 U.S.C. 4022) prohibits flood insurance coverage as authorized under the National Flood Insurance Program (42 U.S.C. 4001–4128) unless an appropriate public body shall have adoped adequate flood plain management measures with effective enforcement measures. The communities listed in this notice no longer meet that statutory requirement for compliance with program regulations (44 CFR Part 59 et seq.). Accordingly, the communities are suspended on the

CIRCULAR # 2538

Friday
October 21, 1983

Federal Register

Part III

Department of the Interior

Bureau of Land Management

Onshore Oil and Gas Order No. 1; Approval of Operations on Onshore Federal and Indian Oil and Gas Lease; Final Rule

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

43 CFR Part 3160

[Circular No. 2538]

Onshore Oil and Gas Order No. 1; Approval of Operations on Onshore Federal and Indian Oil and Gas Leases

AGENCY: Bureau of Land Management, Interior.

ACTION: Final rulemaking.

SUMMARY: This final rulemaking revises Notice to Lessees and Operators of Federal and Indian Onshore Oil and Gas Leases No. 6 (NTL–6) and redesignates it as Onshore Oil and Gas Order No. 1 under 43 CFR 3164.1. The Order supplements requirements of 43 CFR Part 3160 relating to the approval of oil and gas well operations. The rulemaking will lessen the regulatory burden by eliminating or modifying the provisions of NTL–6, thereby minimizing costs and delays in the processing of applications for permit to drill without adversely affecting the ability of the Federal Government to protect the environment. The final Order also reflects changes resulting from the consolidation of all onshore mineral leasing and operational functions in the Bureau of Land Management.

DATE: Effective November 21, 1983.

ADDRESS: Director (500), Bureau of Land Management, 18th & C Streets, NW., Washington, D.C. 20240.

FOR FURTHER INFORMATION CONTACT: Mr. Gerald R. Daniels (202) 653–2134, or Mr. Stephen H. Spector (202) 653–2147.

SUPPLEMENTARY INFORMATION: The Minerals Management Service (MMS) published the Order as proposed rulemaking on December 3, 1982 (47 FR 54462). Comments were invited for 60 days, ending February 1, 1983. There were over 40 separate comments received, including 19 from oil and gas operators, 2 from oil and gas associations, 1 from a State government, 1 from an organization representing several Indian tribes, 1 from an environmental interest group on behalf of 7 environmental groups, and the remainder from various Federal Agencies and from other offices within the Department of the Interior.

The Secretary of the Interior has transferred to the Bureau of Land Management (BLM) all duties related to Federal and Indian mineral leases formerly exercised by MMS, except for those related to revenue accountability (see Secretarial Order No. 3087, December 3, 1982, as amended February 7, 1983, and published in the **Federal Register** of March 2, 1983, 48 FR 8983). As part of the implementation of S. O. 3087, the applicable portions of the operating regulations formerly in Title 30 have been transferred to Title 43 of the Code of Federal Regulations (48 FR 36582).

This rulemaking is to convert the current NTL–6, which was issued in 1976 (41 FR 18116), to an Order promulgated under the authority of 43 CFR 3164.1 formerly 30 CFR 221.14 and, at the same time, to redefine and to describe more clearly the requirements for filing and processing applications for permits to drill (APD). The major changes include some modifications in the previously required content of the supporting documentation to accompany the APD, the inclusion of alternative procedures by which industry may initiate the APD process, and a reduction in the processing and review time now required in most instances. The result will be to minimize costs and delays in the processing of most APD's for both the Government and industry through the elimination of unnecessary, burdensome, and counterproductive portions of NTL–6, while assuring that the objectives of the National Environmental Policy Act of 1969 and other applicable laws and regulations are met. To this end, the comments received as a result of the proposed rulemaking and the Notice of Intent, published April 16, 1982 (47 FR 16426), as well as several studies made of the existing APD processing procedures over the past 2 years have been analyzed.

It should be noted that the basic requirements for approval and the time frame for processing are not established by this Order. The factors which must be addressed by the applicant and the safety, health, and environmental concerns to be considered by the Government, as established by NTL–6, basically remain unchanged. The time frame for APD processing was established by 43 CFR 3162.3–1, formerly 30 CFR 221.23, which became effective November 26, 1982 (47 FR 47758). The purpose of this Order is to supplement established requirements and to provide lessees and operators with sufficient guidance to enable preparation of APD's. This will also enable the Bureau of Land Management to consider the APD's more expeditiously.

The comments received as a result of the publication of the proposed rulemaking ranged from overall support for the proposed modifications of NTL–6 to basic disagreement with changes included in the proposed rule as well as with the earlier final rulemaking covering 30 CFR Part 221 in its entirety, redesignated as 43 CFR Part 3160. A number of commenters proposed several additional modifications, and, where these suggestions improved clarity while not adversely affecting the intended result, the recommendations were adopted.

Two commenters requested that the Order be republished as proposed rulemaking to reflect the merger of all onshore minerals operational responsibilities into BLM. In reviewing these requests, the Department weighed the extent to which the proposed Order required modification due to the merger against the need for completion of the rulemaking process. It was concluded that these operational responsiblilities, although now residing in a different organizational entity, remain basically unchanged by the merger and, moreover, that the merger will enhance the opportunity of fulfilling the objective of streamlining the procedures for the processing of APD's. Therefore, delaying final implementation by republication is considered unnecessary.

A second general comment concerned the publication of this and subsequent Orders in the annual Code of Federal Regulations (CFR). In the effort to design a system to replace the existing NTL's, one option considered when the operating regulations were revised last year was to expand the regulations to include all instructions that the NTL's currently provide. This approach was rejected because the basic policy guidelines are contained in the regulations, while the nature and complexity of supplemental instructive material contained in NTL's must be revised from time to time to reflect changed circumstances. A decision was also made at that tme to convert all nationwide NTL's to Orders. However, it was recognized that a complete listing of all such Orders should be available to lessees and operators for convenient reference. Therefore, it was determined to include in the operating regulations at 43 CFR 3164.1(b) a table of all onshore Orders with information as to the subject matter, effective date, **Federal Register** reference, and the predecessor document(s). This provides easy reference, while not making the operating regulations unduly cumbersome. The table will be updated as each final Order is issued.

A third general comment concerned the failure to provide specific procedures for review and approval of APD's by both State agencies and Indian lessors. With regard to the various States, it is common practice for most to require the filing and approval

of APD's, without regard to mineral ownership status. However, where appropriate, the States also will be given an opportunity for input into the Federal APD process. With regard to exploration and development of Indian tribal and allotted lands, the leasing regulations contained in Title 25 of the CFR provide for approval by the "supervisor," who is the predecessor of the authorized officer contained in this Order. Any requirement for additional approval of operations by or on behalf of the Indian lessor will be addressed by the Bureau of Indian Affairs (BIA) as a part of the APD review process. In addition, the proposed Order contained a provision under section VII which called for the operator to obtain agreement from an Indian or other private surface owner as to surface protection and rehabilitation and/or damages. That provision is retained in the final Order. A provision is inserted which allows approval of operations upon the posting of a bond when surface owner agreement cannot be obtained. In response to the comments received, a change has been made to the Surveying and Staking section (III. A.) to also require the lessee/operator to make arrangements with BIA and the Indian owner prior to entry upon the land for the purpose of surveying and staking.

The following specific comments and responses thereto are listed under the section of the proposed Order to which they relate. Sections which received no comments or only editorial suggestions are not listed.

Accountability (Section I)

The State, which provided comments on behalf of several of its agencies, recommended that this section be modified to include conformance with applicable State laws. The section is modified to include conformance with State and local laws, where applicable. In addition, a sentence has been added to clearly indicate that the lessee and operator are responsible for obtaining any other Federal, State, or Indian approval which may be required prior to commencing operations.

Special Situations (Section II)

A few commenters thought that the exceptions to the prior approval requirement for surveying and staking well locations were too limited. They argued that nonsurface disturbing activities such as "archaeological surveys" should be permitted prior to approval. This concept has been accepted. However, instead of the recommended language the phrase "cultural resource inventories" has been used because it more correctly describes the excepted activity. Several commenters also stated that the requirement for a surface use plan, in those cases where Federal or Indian lands are to be crossed by access roads, appeared to be too broad. They suggested that plans submitted should cover only the Federal or Indian portion of the access road and be provided only in the case of new construction, or reconstruction. As proposed, the provision could have been interpreted as broadly as the commenters suggested; therefore, it has been revised.

Drilling Operations (Section III)—Surveying and Staking (A)

In response to comments by the Department of Defense Task Force for Development of Mineral Leasing Policy on Defense Lands, this section has been modified to exclude lands under Defense jurisdiction from those that may be surveyed and staked without advance approval. This change is made primarily for safety and security reasons. In addition, language has been added to strongly encourage applicants to notify the appropriate office of the involved surface managing agency in advance of surveying and staking; specific examples are cited of conditions that could delay the process if early notification does not occur.

One industry commenter suggested that BIA should be included as a party to be contacted for access arrangements on Indian lands. This change has been made. Commenters thought that the surveying and staking provisions required either too much or too little detail. One operator considered the specifics required to be burdensome. However, this comment was not prevalent. The Order provides the minimum staking requirements necessary to permit a proper evaluation of potential impacts of subsequent surface disturbing activities without being unduly burdensome. In contrast, some of the Government commenters thought operators should be required to stake all potential cuts and fills along access roads. The proposed Order required only that the center line of new access roads be staked. No change was made, since it was concluded that the potential cuts and fills should be evident during the onsite inspection. The final Order does require, however, that cuts and fills on the proposed location be staked.

A few commenters expressed concern that the present practice of using a Preliminary Environmental Review (PER) had not been included in the proposed Order. While the PER is not retained by name as a separate and distinct process, the concept has been utilized in designing the Notice of Staking (NOS) option. This process should prove more efficient for both industry and the Government while utilizing significant features of the prior PER procedure. Operators are strongly encouraged to notify surface managers at the earliest possible stage, and no significant surface disturbing activities will be allowed prior to appropriate authorization.

Material To Be Filed (B)—Notice of Staking (1)

The NOS option was developed from an industry proposal. Thus, there was considerable support for its use. Some commenters suggested it should be used to the exclusion of the existing APD process. However, because the Order provides for two alternative procedures for submission of the required information, operators can utilize the process best suited to their needs.

Several commenters recommended that the provision concerning surface access for surveying and staking should be expanded to include archeological surveys. This concern is addressed under "Special Situations" above. To avoid confusion and duplication, it has been removed from this section. Another commenter recommended incorporating the issuance of rights-of-way not a part of the APD and other special use permits into the Order No. 1 process. The regulations governing the issuance of these other permits are contained in different parts of the rules of the various surface management agencies (SMA). They are beyond the scope of this rulemaking. However, with regard to BLM-administered lands, every effort will continue to be made to coordinate processing and to issue all needed approvals and permits concurrently.

One commenter suggested the inclusion of specific language prohibiting motorized vehicles from sensitive areas. This suggestion has not been adopted, since the use of motorized vehicles would be the appropriate, preferred method of entry in most instances. The language of the Order provides the authorized officer with the necessary authority to take all appropriate steps to protect resource values.

Application for Permit To Drill (2)

The majority of the commenters addressing this provision expressed support for the process. One commenter did express concern that the 30-day time period was insufficient to allow "* * * adequate consideration of environmental values or the public's right to participate in the permitting

decisions." This is not the fact. Public participation begins during the planning process when the initial decision to consider leasing for mineral development and the inclusion of developmental controls are made. In addition, the Order and controlling regulations (43 CFR 3162.3–1 and 3162.5–1, formerly 30 CFR 221.23 and 221.30) require processing in 30 days but do not require the approval of all APD's in that time frame. In fact, the Order cites examples of circumstances where a decision within 30 days is unlikely. In all probability the vast majority of APD's can be processed within 30 days while assuring adequate consideration of environmental values and public participation.

Commenters offered both strong support and opposition for the inclusion of language relating to APD's filed just prior to the lease expiration date. These so-called "eleventh-hour filings" have been and remain a fairly common occurrence. The specific language proposed in this regard (see the last full paragraph of 47 FR 54467) has been deleted, since it apparently caused confusion and could have been interpreted as actually encouraging late filings. The BLM will attempt to accommodate requests for expedited processing due to factors such as an imminent lease expiration date, availability of drilling equipment, or other reasonable factors, but operators must realize that applications normally will be processed in the order received. The primary controlling consideration in determining whether a late-filed application can be accorded a higher priority is, generally, whether the current workload of the involved office will permit the processing to occur within the remaining time available. The extent of the review required to ensure that all technical, administrative, and environmental concerns have been satisfied may preclude a final decision on an application prior to the end of a lease term if the operator fails to allow sufficient lead time for that purpose. The operator has the burden of showing why the filing could not have been made within the normal time frame and thus should be processed prior to previously filed applications.

Conferences and Inspection (C)

The majority of the comments concerning this item addressed the timing of the onsite inspection and the participants. Several commenters, representing "other interested parties," requested specific modification of the Order to include their notification and invitation to the onsite inspection. The Order has been modified to require that operators furnish the name, address, and phone number of all private surface owners and to require that BLM notify such owners and provide an opportunity to participate in the onsite inspection. This includes BIA, if the involved lands are held in trust for Indians. The Order was not modified to make notification of State agencies mandatory; however, State agencies will be notified, when appropriate. No change was made in the requirement that the operator's principal dirt and drilling contractors attend these onsite inspections. While the operator is responsible for all actions of such contractors, past experience has shown that inadvertent miscommunication of requirements can occur when information in that regard is passed on second and third hand. Generally, once actions such as the construction of drill pads or access roads have been improperly executed, the correction thereof can result in the delays of actual drilling operations and additional expenditures to correct the identified errors. BLM seeks to avoid these occurrences by requiring that the operator's principal contractors participate in the onsite inspections. With regard to scheduling and conducting onsite inspections within 15 days, one commenter did not believe enough time was provided to allow for proper public participation. In the vast majority of instances, an onsite inspection that includes all interested parties can be accomplished within 15 days. Moreover, in order to meet the total 30-day processing time frame, the onsite inspection must be held within 15 days. It should be noted that the section of the Order on "Processing Time Frames" does clearly indicate that a processing time longer than 30 days generally will be required in sensitive areas (see item D. below).

The provision relating to in-fill wells received numerous comments of both support and concern. While some commenters thought no inspection should be performed for such wells, others stated that all proposed in-fill wells should be inspected. As finalized, the Order provides the needed flexibility to inspect any in-fill well location where there are site specific concerns that have not been addressed previously by an appropriate environmental assessment. Where the identified concerns have been addressed previously, it is expected that a joint inspection with the involved surface management agency will not be required.

Processing Time Frames (D)

A significant number of commenters expressed support for this section as written and thought that it would greatly enhance the effort to streamline the processing of APD's. One commenter believed that the 30-day processing time frame would cause areas of special environmental concern to be ignored. While the proposed rule, as written, indicated that approval of APD's would not always occur within 30 days and enumerated specific areas in which additional time generally would be required, editorial changes have been made in the provision for clarity. In addition, the list of sensitive areas likely to require more than 30 days of necessary time has been expanded from six to nine, while continuing to indicate that others may be identified later. A few commenters stated that some of the past processing delays occurred because of administrative problems in coordination between involved agencies. This problem was one of the main reasons for the Secretary's decision to merge all onshore mineral leasing and regulatory functions of the Department into BLM. Since the majority of the drilling applications are for wells on lands under BLM's jurisdiction, the number of administrative delays should be greatly reduced in the future.

Cultural Resources Clearance (E)

Several commenters stated that this provision was unclear in several respects. In response to these comments, the entire provision has been rewritten for clarity. The Order now provides a separate cultural resources clearance requirement for privately owned surface. It also has been modified to encourage the lessee or operator to contact other involved Federal SMA's prior to submission of any material to BLM. These early contacts will allow quicker identification of potential problems involving cultural resources and the determination of whether a cultural resources inventory and report will be required. No change was made with regard to the cultural resources clearance requirement for in-fill wells, since surface conditions may vary greatly on various portions of the same leased area. However, if a previous report covered the proposed new well location and is referenced in the application, no new report will be required.

Threatened and Endangered Species Clearance and Other Critical Environmental Concerns (F)

One commenter interpreted the provision as allowing drilling sites to be located in areas of special environmental concern, without

appropriate consideration of those concerns. This interpretation is not correct. BLM or other surface managing agencies will identify and consider all significant environmental concerns during the review process. BLM will ensure that all other appropriate organizational entities are consulted, as required by applicable law and regulation. However, it is neither necessary nor appropriate to detail all such existing consultation procedures in the Order.

Components of a Complete Application for Permit To Drill (G)—Complete Application (1)

Although no comments were received on this provision, it has been modified to recognize the authority of the Environmental Protection Agency (EPA) and the States which gain primacy from EPA in relation to those wells which a lessee or operator proposes to drill for injection purposes (disposal or production enhancement) on Federal or Indian lands. The language added advises that, in these circumstances, the lessee or operator must also obtain an underground injection permit from EPA or the involved State, where the State has achieved primacy. In addition, language has been added to advise lessees and operators that any information supplied to the State or EPA in support of obtaining the injection permit will be accepted by BLM to the extent that it satisfies the information submittal requirements of this Order. Similar language has been added in section IV. (Subsequent Operations) to address those situations where a lessee or operator proposes to convert an existing well on Federal or Indian lands for injection purposes.

Commenters requested clarification of the meaning intended by the use of the term "certified plat" in provision 3.a. The provision has been modified to clearly state that the plat must be prepared by a registered surveyor and that the surveyor must certify on the plat that the site has been staked as shown. An additional sentence also has been added, for clarity, to provision 3.e. (cementing).

Form 3160–3, Formerly 9–331 C (3)

Lessees and operators are advised that all forms referenced in the Order will be revised slightly and will be renumbered in accordance with the BLM system of numbering forms. BLM form numbers correspond to the number of the controlling regulations. This form conversion process has just begun since the nonroyalty portions of the operating regulations (formerly 30 CFR Part 221) have been transferred to Title 43 CFR Part 3160. In addition, the agency and approving official's title will be changed. Until this occurs, however, all approved forms currently in use will remain valid.

Drilling Plan (4)

One commenter requested that the provision relating to the protection of proprietary data be modified to more closely parallel the procedures followed for wells drilled offshore. While the specific change requested has not been adopted, the language has been modified to indicate clearly that any information identified by the applicant as proprietary, pursuant to 43 CFR 3162.8, formerly 30 CFR 221.33, will be deleted from all informational copies that BLM supplies to other parties.

Another commenter requested a modification to indicate that pertinent data will be provided to the involved surface managing agency. This suggestion has been adopted. Language also has been added to provide applicants with information regarding the standards that BLM and other involved agencies utilize in evaluating the technical competency of the proposed drilling and surface use programs. In addition, a provision has been added to clarify the Department's position on reclamation of privately owned surface, which is, basically, that reclamation on such lands is a matter to be resolved between the lessee or operator and the private surface owner. However, BLM may require that information about such arrangements be submitted when it is determined that Federal or Indian surface could be significantly affected by a proposed well site or access road on nearby private surface (see section VII., Privately Owned Surface.).

Guidelines for Preparing Drilling Program (a)

One commenter stated that item (6), on testing, logging, and coring, was confusing. In response to that comment, the language has been modified for clarity.

Guidelines for Preparing Surface Use Program (b)

These guidelines received extensive comment and are discussed by individual item. Some of the BLM field office commenters thought the Order should strictly require a standard map size. This suggestion has not been adopted, as it would be unduly burdensome not to provide some flexibility. Item (1) has been modified to require the maintenance of existing roads pursuant to SMA standards. One commenter objected to the requirement in item (3) that all wells within a 1-mile radius of the proposed location be listed. This provision has not been modified because the information is needed for the proper evaluation of each proposal. It should be noted that the existing NTL–6 requires such information for a 2-mile radius around proposed exploratory wells.

Item (4), relating to the location of existing and proposed facilities should a well be productive, elicited considerable comment. One commenter suggested that specific information in this regard may not be known when an exploratory well is first proposed. Thus, precise information, such as the nature and placement of storage and treating facilities, can only be determined after a discovery has occurred and the nature and extent thereof is known. The provision has been modified to allow the filing of a request for the subsequent approval of any production facility not known or contemplated at the time an APD is initially filed. However, the requirement that such information, to the extent known or contemplated, shall be included in the initial filing, has been retained. This information is necessary for planning purposes and could expedite the approval of new or modified facilities at a later date.

In addition, matters other than surface disturbance (e.g., other authorized uses of the surface) can be affected by the siting and areal extent of production facility layouts and thus must be considered as early as possible by the involved SMA. This item was also modified by removing certain informational requirements relating to subsequent operations and placing those in section IV. of the Order. Item (6) was clarified to conform to recent amendments to the controlling regulations.

Some commenters thought item (9) should be deleted, since most drilling rig layouts are similar. However, others stated that the provision should be expanded to include additional detail so that potential impacts could be fully evaluated. The provision has not been revised because it provides for the receipt of all essential information without being unnecessarily burdensome.

One commenter observed that the information required by item (10) duplicated other items of the Order. BLM concurs in this observation and has consolidated, to the maximum extent practicable, all references to surface reclamation plans in this provision. Additionally, the words "rehabilitation" and "restoration" have been replaced with the more comprehensive term of "reclamation."

Item (11) was revised and the title changed in response to the comments received. It now specifically requires the submission of information on the surface ownership at the well site and for all roads to be constructed or reconstructed. If privately owned surface is involved, the name, address and phone number of such person is to be provided also. To encourage lessees and operators to submit other useful data, a new item (12) has been added, and item (12), as proposed, has been renumbered as (13).

Subsequent Operations (Section IV)

Eleven commenters specifically addressed this section of the proposed Order. A few of the comments were directed to the controlling regulation (43 CFR 3162.3–2, formerly 30 CFR 221.27) and thus were beyond the scope of the rulemaking. Most of the other commenters found the proposed item unclear. The entire provision has been rewritten for clarity and to conform the language to that of the controlling regulations. As stated in both the regulation and the Order, routine operations will require prior approval only if additional surface disturbance is involved. Additionally, language has been added to recognize the authority of EPA or a primacy State with respect to underground injection control. Thus, lessees and operators are advised that a permit must also be obtained from EPA or the State whenever it is proposed to convert an existing well on Federal or Indian lands for injection purposes. Information submitted to EPA or the State in support of obtaining such a permit will be accepted by BLM to the extent that it satisfies the information submission requirements of the Order.

Well Abandonment (Section V)

In response to the comments received, this section has been revised specifically to provide that, when appropriate, additional reclamation requirements may be imposed upon abandonment of an operational site on Federal or Indian surface.

Privately Owned Surface (Section VII)

Several commenters questioned both this section, as proposed, and references to operations on privately owned surface contained elsewhere in the proposed Order. This section has been rewritten to consolidate these references under this provision and to clarify, with respect to privately owned surface, surface protection, cultural resources, surface reclamation, and/or payment in lieu thereof, that all are matters to be settled between the lessee/operator and the private surface owner. The BLM will only become involved in these arrangements if it is determined that adjacent Federal or Indian surface could be adversely affected by construction or operational activities on the privately owned surface or if an agreement cannot be reached. Commenters generally favored the concept that a copy of any such agreement need not be submitted if such adjacent Federal and Indian surface will not be affected adversely.

Reports and Activities Required After Well Completion (Section VIII)

Several operators commenting on this provision found the references to required submissions either unnecessary, in light of the controlling regulations, or inconsistent with the recently enacted Federal Oil and Gas Royalty Management Act of 1982. In response to this comment the section has been rewritten to conform to the regulations and the Act.

The only substantive comment relating to the attachments to the Order was that the operator's phone number should be provided on the optional NOS. This change has been made. The attachments are provided to expedite the review and processing of the application. However, approved form 3160–3, formerly 9–331C, and the attachments thereto constitute the basic filing requirement specified by this Order.

The principal authors of this final rulemaking are Mr. Lynn Rust, Cheyenne, Wyoming; Mr. Raymond W. Vinyard, Tulsa, Oklahoma; Messrs. Paul Petty and Gregory P. Shoop, Division of Fluid Mineral Leasing; and Messrs. Sie Ling Chiang, Frederick S. Crafts, Gerald R. Daniels, Gerald J. Richard, Stephen H. Spector, William J. Weber, and Eddie R. Wyatt, Division of Fluid Mineral Operations, assisted by staff members of the Office of Legislation and Regulatory Management, all of the Bureau of Land Management. Significant guidance and input also was provided by personnel of the Office of the Solicitor, the Department of the Interior, and the Forest Service, Department of Agriculture.

Executive Order 12291

The Department of the Interior has determined that this document is not a major rule and does not require a regulatory impact analysis under Executive Order 12291 because its net effect is estimated to be a 5 percent cost reduction in the processing of operational proposals.

Regulatory Flexibility Act

The Department has also determined that the rulemaking will not have a significant economic impact on a substantial number of small entities and does not require a regulatory flexibility analysis under the Regulatory Flexibility Act because its net effect is estimated to be a 5 percent cost reduction in the processing of operational proposals.

National Environmental Policy Act of 1969

It is hereby determined that this proposed rulemaking does not constitute a major Federal action significantly affecting the quality of the human environment and that no detailed statement pursuant to section 102(2)(C) of the National Environmental Policy Act of 1969 (42 U.S.C. 4332(2)(C)) is required.

Paperwork Reduction Act of 1980

The optional Notice of Staking (NOS) is an industry proposal for expediting the review and processing of the approved Application for Permit to Drill form (3160–3), and when this optional notice is used, it will always be followed by the required, approved form. The information that may be supplied in the notice is identical to information that is required by the Application for Permit to Drill, which information collection requirement has already been cleared. Any supporting documents accompanying the notice need not be resubmitted with the application form unless a significant change has occurred since the submission of the notice. The sample format is provided to assist applicants in the preparation of the notice. This method of collecting information does not impose any additional burden on the affected public and as such, the Office of Management and Budget has agreed to incorporate the NOS into the clearance for the Application for Permit to Drill, 1004–0136. The collection of all information required by this Order has been approved by OMB under 44 U.S.C. 3507 and assigned the following clearance numbers: 1004–0134—The specific provisions of the regulations in 43 CFR Part 3160, formerly 30 CFR Part 221, 1004–0135—Sundry Notice and Report of Wells (3160–5, formerly 9–331), 1004–0136—Application for Permit to Drill, Deepen, or Plug Back (3160–3, formerly 9–331C), and 1004–0137—Well Completion or Recompletion Report and Log (3160–4, formerly 9–330).

List of Subjects in 43 CFR Part 3160

Government contracts, Oil and gas exploration, Public lands, Mineral resources, Reporting requirements.

Under the authority of the Act of February 25, 1920, as amended and supplemented (30 U.S.C. 189, 226), and Executive Order 12291 (46 FR 13193), Part 3160, Group 3100, Subchapter C, Chapter II of Title 43 of the Code of Federal Regulations is amended as set forth below.

Dated: September 21, 1983.

Harold W. Furman II,

Acting Assistant Secretary of the Interior.

PART 3160—ONSHORE OIL AND GAS OPERATIONS

Section 3164.1(b) is amended by adding the following table:

§ 3164.1 Onshore Oil and Gas Orders.

* * * * *

(b) * * *

Order No.	Subject	Effective date	Federal Register reference	Supersedes
1	Approval of Operations	Nov. 21, 1983	48 FR—	NTL-6.

Appendix—Text of Oil and Gas Order

Note.—This appendix will not appear in the Code of Federal Regulations.

Contents

Onshore Order

Introduction

I. Accountability
II. Special Situations
III. Drilling Operations
  A. Surveying and Staking
  B. Material to be Filed
    1. Notice of Staking
    2. Application for Permit to Drill
  C. Conferences and Inspections
  D. Processing Time Frames
  E. Cultural Resources Clearance
  F. Threatened and Endangered Species Clearance and Other Critical Environmental Concerns
  G. Components of a Complete Application for Permit to Drill
IV. Subsequent Operations
  A. Production Facilities
  B. Other Operations
  C. Emergency Repairs
  D. Environmental Review
V. Well-Abandonment
VI. Water Well Conversion
VII. Privately Owned Surface
VIII. Reports and Activities Required After Well Completion

Onshore Oil and Gas Order

Federal and Indian Oil and Gas Leases

Order No. 1

Effective: November 21, 1983.

Approval of Operations

Introduction

This Order is established pursuant to the authority prescribed in 43 CFR Part 3160, formerly 30 CFR 221. Approval of all proposed exploratory, development, and service wells, and all required approvals of subsequent well operations and other lease operations, shall be obtained in accordance with 43 CFR 3162.3–1, 3162.3–2, 3162.3–3, 3162.3–4 and 3162.5–1, formerly 30 CFR 221.23, 221.27, 221.28, 221.29, or 221.30, as appropriate.

All wells approved for drilling under the provisions of this Order shall have been included in a drilling plan, as required under 43 CFR 3162.3–1(d), formerly 30 CFR 221.23(d).

A drilling plan may be submitted for a single well, or for several wells that are proposed to be drilled to the same zone within a field or area of geological and environmental similarity. Plans for additional development of the leasehold should be considered in the submittal.

However, approval of Form 3160–3, formerly 9–331C (Application for Permit to Drill, Deepen, or Plug Back) is required for each well, and in order to be complete an Application for Permit to Drill (APD) shall include all information required under 43 CFR 3162.3–1 (d) and (e). A technically and administratively complete APD includes, in addition to Form 3160–3, a drilling plan, evidence of bond coverage, a designation of operator, when appropriate, and such other information as may be required by applicable Order or Notice to evaluate the proposal. Refer to section III.G. for more detailed guidance on complete APD's.

Certain subsequent well operations and other lease operations involving additional surface disturbance shall be included in a plan submitted on Form 3160–5, formerly 9–331 (Sundry Notices and Reports On Wells), and approved under the provisions of this Order pursuant to 43 CFR 3162.3–2 or 3162.3–3, formerly 30 CFR 221.27 or 221.28, respectively.

A report on all subsequent well operations shall be filed on Form 3160–5, as prescribed in 43 CFR 3162.3–2. A notice of intention to abandon a well and a subsequent report of abandonment shall also be filed on Form 3160–5, as required by 43 CFR 3162.3–4.

All applications for approval under the provisions of this Order shall be submitted to the appropriate authorized officer of the Bureau of Land Management (BLM). "Authorized Officer" means any person authorized to perform the duties prescribed. To be advised of the proper BLM official and office with which to file an application, the lessee/operator may contact the appropriate District Manager of BLM having jurisdiction over lease operations in a particular area.

The lessee/operator shall comply with the following requirements:

I. *Accountability.* Lessees and operators have the responsibility to see that their exploration, development, production, and construction operations are conducted in a manner which (1) conforms with applicable Federal laws and regulations and with State and local laws and regulations to the extent that such State and local laws are applicable to operations on Federal or Indian leases; (2) conforms with the lease terms, lease stipulations, and conditions of approval; (3) results in diligent development and efficient resource recovery; (4) protects the lease from drainage; (5) affords adequate safeguards for the environment; (6) results in the proper reclamation of disturbed lands; (7) conforms with current available technology and practice; (8) assures that underground sources of fresh water will not be endangered by any fluid injection operation; and (9) otherwise assures the protection of the public health and safety. Lessees and operators shall be held fully accountable for their contractors' and subcontractors' compliance with the requirements of the approved permit and/or plan. Drilling/construction and associated operations shall not be conducted without prior approval of the authorized officer of BLM. BLM approval of the APD does not relieve the lessee and operator from obtaining and other authorizations required for operations on Federal and Indian lands.

II. *Special Situations.* Lessees and operators, as well as their contractors and subcontractors, shall not commence any operation or construction activity on a lease, other than cultural resource inventories and surveying and staking well locations on Federal and Indian lands, without the prior approval of the authorized officer of BLM, except for certain subsequent operations (see Section IV. of this Order). The terms and conditions of an approved permit and drilling plan, or other plan, shall not be

altered unless BLM first has approved an amended or supplemental permit and/or plan covering any such modifications.

For proposed operations on a committed State of fee tract in a Federally supervised unit or communitized tract, the operator shall furnish a copy of the approved State permit to the authorized officer of BLM which will be accepted for record purposes. In addition, in cases where an access road to a non-Federal or non-Indian drillsite will cross leased Federal or Indian lands, the operator shall submit a surface use plan only for those portions of the access road on Federal or Indian lands where new construction or reconstruction will occur. Such plans shall be submitted to the authorized officer of BLM or appropriate Federal Surface Management Agency (SMA) and approval obtained prior to commencement of construction operations on the Federal or Indian surface. For privately owned surface, refer to section VII.

III. *Drilling Operations.*

A. *Surveying and Staking.* Surveying and staking may be done without advance approval from the authorized officer of BLM or other appropriate SMA and prior to the conduct of any required cultural resource inventory, except for lands administered by the Department of Defense or other lands used for military purposes, or where significant surface disturbance is likely to occur.

Lessees and operators are strongly encouraged to notify the appropriate SMA prior to entry upon the lands for the purposes of surveying and staking. Early notification will allow the SMA to apprise the lessees and operators of any existing conditions, knowledge of which could result in saving of time and money by both industry and Government. These include but are not limited to:

—Whether a cultural resource inventory is required;
—Presence of threatened or endangered species and/or critical habitats;
—Vehicle access restrictions; and/or
—Permitting requirements applicable to affected lands outside the leasehold boundary.

Where the surface is privately owned or held in trust of Indian benefit, the lessee/operator is responsible for making access arrangements with the private surface owner or the Bureau of Indian Affairs (BIA) and Indian tribe or Indian allottee(s) prior to entry upon the lands for the purpose of surveying and staking.

Staking shall include the well location, two 200-foot directional reference stakes, the exterior dimensions of the drill pad, reserve pit and other areas of surface disturbance, cuts and fills, and centerline flagging of new roads with road stakes being visible from one to the next. Cut and fill staking applies only to the wellsite, reserve pit, and, if off-location, and ancillary facilities.

B. *Material to be Filed.*

1. *Notice of Staking.* Prior to filing a complete APD, the lessee or operator may, at its option, file a Notice of Staking (Attachment A) with the authorized officer of BLM and appropriate office of any other involved SMA. In Alaska, a copy of the Notice shall also be sent to the appropriate Borough when a subsistence stipulation is part of the lease.

The information contained in the Notice of Staking (NOS) will aid in identifying the need for associated rights-of-way and special use permits. If all required information is not included, the NOS shall be returned to the operator for modification.

2. *Application for Permit to Drill (APD).* Regardless of whether an NOS is filed, the lessee or operator shall file an APD. This application shall be administratively and technically complete prior to approval. The authorized officer of BLM shall advise the lessee or operator, within 7 working days of receipt of the application, as to whether or not the application is complete. If the application is complete, oral notification will suffice. If the application is not complete, notification to that effect shall be made in writing even though the lessee or operator may have already received oral notification. For purposes of written notification, Attachment B, Checklist For Applicant Notification, shall be mailed to the applicant within the 7-day period. The notification shall advise the lessee or operator of any defects that need correcting and of any additional information required. If the deficiencies are not corrected and/or the additional required information is not submitted within 45 days of the date of any oral or written notice (if no prior oral notice), the application shall be returned to the proponent.

Upon initiation of the APD process, the authorized officer of BLM shall consult with any other involved SMA and with other appropriate interested parties, and shall take one of the following actions within 30 days: (1) Approve the application as submitted or with appropriate modifications or stipulations; (2) return the application and advise the lessee or operator of the reasons for disapproval; or (3) advise the lessee or operator, either in writing or orally with subsequent written confirmation, of the reasons why final action will be delayed and the date such final action is expected.

When the NOS option is followed, BLM shall strive to process the subsequent related APD within 10 days of the APD's receipt. However, in either situation, the process of reviewing the APD and advising the lessee or operator as to whether it is technically and administratively complete shall be considered a part of the overall APD processing time, i.e., 30 days in case of the APD option and 10 days if the NOS process is utilized. Operators are cautioned that with respect to any particular well, the option selected initially, of either filing both an NOS and a subsequent APD or only an APD, is to be followed and there shall be no shifting between the two options. If operators fail to maintain a consistent approach in this regard, the processing time already expended shall not be counted as part of the above 30-day period.

The processing of applications shall be given a high priority, and individual applications shall be processed according to the date the application is received by the appropriate BLM office. If it is not possible for BLM actions to be taken prior to lease expiration, the lessee or operator shall be advised, at least orally, prior to the lease expiration date, with all such notifications confirmed in writing. Said advice shall detail the reasons for delay so that the lessee or operator may take such appeal or other recourse to preserve the lease as is allowed by law and/or regulation. The appropriate BLM office telephone number and address shall be furnished to the lessee or operator with the earliest notification or advice.

C. *Conferences and Inspections.* An onsite predrill inspection shall be scheduled and conducted by the appropriate BLM office within 15 days of receiving the applicant's initially-filed document, i.e., either an NOS or a complete APD. In special circumstances, the authorized officer of BLM may require the filing of a complete APD prior to the scheduling of an onsite predrill inspection. Representatives of the appropriate BLM office, the operator and other interested parties, such as any other involved SMA, the appropriate Alaska Borough (when a subsistence stipulation is part of the lease), and the operator's principal dirt and drilling contractors shall attend the predrill inspection. When appropriate, the operator's surveyor and archeologist should also participate in the inspection. If any other involved SMA is not able to participate at the desired time, the

inspection may be rescheduled provided it can be conducted within the 15-day period. When private surface is involved, the lessee or operator shall furnish the name, address and telephone number of the private surface owner on the NOS form or, in the surface use program, such information shall be attached to the APD. The BLM shall invite the surface owner to participate in the onsite inspection. This invitation will be extended as early as possible. However, a surface owner's inability to attend shall not delay the scheduled inspection unless BLM can conveniently reschedule the inspection within the 15-day time period. Joint inspections, i.e., those involving any other SMA, normally shall not be held for proposed in-fill well locations in developed fields if an appropriate environmental assessment (EA) already has been completed by BLM for the field or that area of the field. However, if staffing permits, a representative of BLM shall inspect those proposed locations where a joint predrill inspection is not held. At the time of onsite inspection, staking of the location shall have occurred, as specified in part A of this section. The surface use and reclamation stipulations shall be developed during the onsite inspection and provided to the operator either at the location or within 5 working days from the date of the onsite inspection, barring unusual circumstances. These requirements shall be incorporated into the complete application, when filed, if the proponent is following the NOS option. Otherwise, these requirements shall be incorporated as conditions of the APD approval if an NOS is not filed. However, this does not preclude the possibility of additional conditions being imposed as a result of the review of the complete application.

D. *Processing Time Frames.* The following table summarizes the major time frames involved in processing most APD's:

APD OPTION

Action items	Days
Onsite inspection	Within 15 days after receipt of the APD.
Requirements to be imposed when APD is approved.	Developed onsite or within 5 working days thereafter.
Complete processing of APD.	Within 30 days of the APD's receipt, provided that it is technically and administratively complete at the end of the 30-day period (includes the above 15-day and 5-day periods).

NOS OPTION

Action items	Days
Onsite inspection	Within 15 days after receipt of the NOS.
Requirements for inclusion in APD.	Furnished onsite or within 5 working days thereafter.
Complete processing of APD.	Within 10 days of the APD's receipt, provided that it is technically and administratively complete at the end of the 10-day period.

The above timeframes together comprise the total period during which BLM anticipates it will be able to process approximately 90 percent of all APD's. However, the 30 days may not run consecutively even when APD's are filed immediately after onsite inspections. For example, any time used by lessees or operators to correct deficiencies, or to prepare and submit information initially omitted from the application and which causes delays in processing beyond BLM's control, shall not be counted as part of the 30-day period. However, BLM shall continue to process applications up to the point where any missing piece of information or an uncorrected deficiency renders further processing impractical or impossible. Processing delays which extend the 30-day processing time are expected to occur in less than 5 percent of the cases. In addition, delays in conducting onsite inspections within 15 days of receiving an NOS (or an APD if an NOS is not filed), or delays in providing all stipulations to the operator within 5 working days of an onsite inspection may occur in less than 5 percent of the cases during periods of severe weather conditions and in areas where certain environmental concerns or jurisdictional conflicts exist.

Such areas include, but are not limited to:

1. Certain tribally or individually owned Indian trust or restricted lands.
2. Lands withdrawn for Federal reservoirs and Federal lands surrounding such reservoirs.
3. Lands in formally designated wilderness areas, lands formally proposed for such designation, lands within BLM Wilderness Study Areas or lands within Forest Service Further Planning Areas.
4. National Recreation Areas.
5. Wildife Refuges.
6. Certain Federal lands in Alaska.
7. Lands under jurisdiction of the Department of Defense.
8. Lands where a major problem exists with respect to cultural resources.
9. Lands known to contain threatened or endangered species and/or critical habitats.

The 30-day time frame for completion of the APD process also may be exceeded in most cases where it is necessary to prepare an EA, and in all cases where it is necessary to prepare an environmental impact statement (EIS).

Lessees and operators are also cautioned that if the NOS/APD process begins less than 30 days prior to the desired date of commencement of drilling operations, the process may not be completed within the time desired.

E. *Cultural Resources Clearance.* Because consultation with the involved SMA and the State Historic Preservation Officer on matters that relate to the protection of historic and cultural resources is provided in BLM (36 CFR 800.4(a)(1)), lessees and operators should contact the involved SMA at least 15 days prior to the submission of an NOS or APD to determine whether any actions are necessary to locate and identify historic and cultural resources. If such actions are necessary, lessees and operators are encouraged to complete the work and report prior to the submission of any other material to the authorized officer of BLM but, in any event, no later than the time the complete APD is submitted. Survey work and a related report shall be required only if the involved SMA has reason to believe that properties listed, or eligible for listing, in the National Register of Historic Places (NRHP) are present in the area of potential effect. Historic and cultural resources work on privately owned surface shall be undertaken only with the consent of the private surface owner. If the private surface owner refuses entry for that purpose, the lessee or operator shall use its best efforts to conduct its approved operations in a manner that avoids adverse effects on any properties which are listed, or may be eligible for listing, in the NRHP.

F. *Threatened and Endangered Species Clearance and Other Critical Environmental Concerns.* The involved SMA shall identify any threatened and endangered species and/or critical habitat problems and other environmental concerns, e.g., wilderness and wilderness study areas, wild and scenic rivers, etc., to minimize the possibility of drill site relocation. Should the SMA, if that agency is not BLM, be unable to carry out this responsibility, BLM shall do so. BLM shall identify any known or potential surface geological hazards. If any of these concerns exist, information in that regard shall be conveyed to the lessee/operator by BLM no later than when the surface use and reclamation stipulations are provided;

however, the lessee/operator can ensure earlier identification of potential conflict in these areas of concern by contacting the involved SMA prior to the submittal of an NOS or APD. The authorized officer of BLM should be timely apprised of any contacts with any other involved SMA.

G. *Components of a Complete Application for Permit to Drill.*

1. *Complete Application.* If an NOS is filed, the lessee/operator shall prepare and submit a complete APD within 45 days of the onsite inspection pursuant to the requirements of this subsection. Failure to timely submit an APD within this time frame may result in the lessee/operator having to repeat the entire process. The complete APD shall be submitted in triplicate to BLM, together with any additional copies required by the authorized officer. As provided in 43 CFR 3162.3–1(d), formerly 30 CFR 221.23(d), a complete application consists of:

(a) Form 3160–3, (b) a drilling plan (or reference thereto) containing information required by section G.4., below, (c) evidence of bond coverage as required by Department of the Interior regulations, (d) designation of operator, where necessary, and (e) such other information as may be required by applicable Orders and Notices, including a cultural resource report (if required and not already filed). The APD shall be signed by the lessee/operator official having the responsibility and authority to supervise and direct all activities related to the permit and who can be contacted in the event of a problem. The authorized officer may require additional information in unusual circumstances. However, where the proposed well is to be completed for injection purposes (disposal or production enhancement), lessees and operators also shall obtain an underground injection permit from the Environmental Protection Agency (EPA) or the State, where the State has achieved primacy. Any information submitted in support of obtaining that permit shall be accepted by the authorized officer to the extent that it satisfies the information submission requirements of this Order.

2. *Designation of Operator.* The lessee may authorize the actual conduct of operations in its behalf by designating another party as operator in a manner and form acceptable to the authorized officer. Lessees shall notify the authorized officer in writing whenever an existing designation of operator is cancelled. A designated operator cannot designate a different party as operator.

3. *Form 3160–3, formerly 9–331C, (Application for Permit to Drill, Deepen, or Plug Back).* This Form shall be completed in full and submitted to the authorized officer together with all necessary information referred to under section G.1. above. The following points a. through f. are specific as to appropriate information requirements of the Form and shall be stated thereon, or as an attachment thereto, for each proposed well:

a. A well location plat shall be attached depicting the proposed location, as determined by a registered surveyor, in feet and direction from the nearest section lines of an established public land survey or, in areas where there are no public land surveys, by such other method as is acceptable to the authorized officer. The plat shall be signed by the surveyor, certifying that the location has, in fact, been staked on the grounds as shown on the plat.

b. The elevation given shall be the above-sea-level datum of the unprepared ground.

c. The type of drilling tools and associated equipment to be utilized shall be stated.

d. The proposed casing program shall include the size, grade, weight, type of thread and coupling, and setting depth of each string, and whether it is new or used.

e. The amount and type of cement, including additives to be used in setting each casing string, shall be described. If stage-cementing techniques are to be employed, the setting depth of the stage collars and amount and type of cement, including additives, to be used in each stage shall be given. The expected linear fill-up of each cemented string or each stage, when utilizing stage-cementing techniques, shall be provided.

f. The anticipated duration of the total operation shall be given in addition to the anticipated starting date. A copy of the approved Form 3160–3 and the pertinent drilling plan, along with any conditions of approval, shall be available at the drillsite to authorized or delegated representatives of the United States whenever active construction, drilling, or completion operations are under way.

4. *Drilling Plan.* A drilling plan in sufficient detail to permit a complete appraisal of the technical adequacy of, and environmental effects associated with, the proposed project shall be prepared and either submitted with each copy of Form 3160–3, or referenced thereon if it is already on file with BLM or is being submitted for more than one well. The plan shall be developed in conformity with the provisions of the lease, including attached stipulations, and the guidelines provided by this Order or other land use documents. Each drilling plan shall contain a description of the drilling program and surface use program. The BLM shall send a copy of appropriate parts of the plan to any other involved SMA and may send a copy of the plan to other interested Federal, State, and local agencies. All information identified as proprietary by the applicant pursuant to 43 CFR 3162.8, formerly 30 CFR 221.33, shall first be deleted. The drilling program shall include a description of the pressure control system and circulation mediums, the testing, logging and coring program, pertinent geologic data, and information on expected problems and hazards. The drilling program shall be reviewed for adequacy by BLM. The criteria/standards set forth in the operational manual section (currently designated CDM 643.1.3E, Technical Considerations), or in effect at the time of submission of the APD, generally will be utilized in evaluating the technical adequacy of a proposed drilling plan. If the program is considered adequate, BLM shall require modification of the drilling program.

The surface use program shall contain a description of the road and drill pad location and construction methods for containment and disposal of waste material, and other pertinent data as the authorized officer may require. The surface use program shall provide for safe operations, adequate protection of surface resources and uses and other environmental components, and shall, for Federal and Indian surface, include adequate measures for reclamation of disturbed lands no longer needed for either drilling or other subsequent operations. Where the surface is privately owned, the authorized officer may require the submission of the reclamation plan between the lessee or operator and landowner in order to determine if it is adequate to protect nearby Federal and Indian surface from significant impacts generated by the operation. In developing the surface use program, the lessee or operator shall make use of such information as is available from the involved SMA concernng the surface resources and uses, environmental considerations, and local reclamation procedures. The surface use program shall be reviewed for adequacy by BLM and by any other involved SMA. The criteria/standards set forth in the Surface Operating Standards for Oil and Gas Exploration and Development Handbook, Second Edition, August 1978, or as subsequently revised, generally shall be utilized in evaluating the adequacy of a proposed surface use plan. If the surface use program is considered inadequate, BLM

shall, in consultation with any other involved SMA, require modifications or amendment of the program or otherwise set forth stipulations or conditions of approval as are necessary for the protection of surface resources/uses and the environment, and for the reclamation of the areas to be disturbed when no longer needed for operational purposes.

a. *Guidelines for Preparing Drilling Program.* The following information shall be included as part of the drilling plan but shall be made specific to each well if the plan covers more than one well:

(1) Estimated tops of important geologic markers.

(2) Estimated depths at which the top and the bottom of anticipated water (particularly fresh water), oil, gas or other mineral-bearing formations are expected to be encountered and the lessee's or operator's plans for protecting such resources.

(3) Lessee's or operator's minimum specifications for pressure control equipment to be used and a schematic diagram thereof showing sizes, pressure ratings (or API series), and the testing procedures and testing frequency.

(4) Any supplementary information more completely describing the drilling equipment and casing program as set forth on Form 3160–3.

(5) Type and characteristics of the proposed circulating medium or mediums to be employed in drilling, the quantities and types of mud and weighting material to be maintained, and the monitoring equipment to be used on the mud system.

(6) The anticipated type and amount of testing, logging, and coring.

(7) The expected bottom hole pressure and any anticipated abnormal pressures or temperatures or potential hazards, such as hydrogen sulfide, expected to be encountered, along with contingency plans for mitigating such identified hazards.

(8) Any other facets of the proposed operation which the lessee or operator wishes to point out for BLM's consideration of the application.

(b) *Guidelines for Preparing Surface Use Program.* In preparing this program, the lessee or operator shall submit maps, plats, and narrative descriptions which adhere closely to the following (maps and plats should be of a scale no smaller than 1:24,000 unless otherwise stated below):

(1) *Existing Roads.* A legible map (USGS topographic, county road, Alaska Borough, or other such map), labeled and showing the access route to the location, shall be used for locating the proposed well site in relation to a town (village) or other locatable point, such as a highway or county road, which handles the majority of the through traffic to the general area. The proposed route to the location, including appropriate distances from the point where the access route exits established roads, shall be shown. All access roads shall be appropriately labeled. Any plans for improvement and/or a statement that existing roads will be maintained in the same or better condition shall be provided. Existing roads and newly constructed roads on surface under the jurisdiction of an SMA shall be maintained in accordance with the standards of the SMA.

Information required by items (2), (3), (4), (5), (6), and (8) of this subsection also may be shown on this map if appropriately labeled or on a separate plat or map.

(2) *Access Roads to Be Constructed and Reconstructed.* All permanent and temporary access roads that are to be constructed, or reconstructed, in connection with the drilling of the proposed well shall be appropriately identified and submitted on a map or plat. Width, maximum grade, major cuts and fills, turnouts, drainage design, location and size of culverts and/or bridges, fence cut and/or cattleguards, and type of surfacing material, if any, shall be stated for all construction. In addition, where permafrost exists, the methods for protection from thawing must be indicated. Modification of proposed road design may be requird during the onsite inspection.

Information also should be furnished to indicate where existing facilities may be altered or modified. Such facilities include gates, cattleguards, culverts, and bridges which, if installed or replaced, shall be designed to adequately carry anticipated loads.

(3) *Location of Existing Wells.* It is recommended that this information be submitted on a map or plat and include all wells (water, injection or disposal, producing, and drilling) within a 1-mile radius of the proposed location.

(4) *Location of Existing and/or Proposed Facilities if Well Is Productive.*

(a) *On well pad*—A map or plat shall be included showing, to the extent known or anticipated, the location of all production facilities and lines to be installed if the well is successfully completed for production.

(b) *Off well pad*—A map or plat shall be included showing to the extent known or anticipated, the existing or new production facilities to be utilized and the lines to be installed if the well is successfully completed for production. If new construction, the dimensions of the facility layout are to be shown.

If the information required under (a) or (b) above is not known and cannot be accurately presented and the well subsequently is completed for production, the operator shall then comply with section IV. of this Order.

(5) *Location and Type of Water Supply (Rivers, Creeks, Springs, Lakes, Ponds, and Wells).* This information may be shown by quarter-quarter section on a map or plat, or may be a written description. The source and transportation method for all water to be used in drilling the proposed well shall be noted if the source is located on Federal or Indian lands or if water is to be used from a Federal or Indian project. If the water is obtained from other than Federal or Indian lands, only the location need be identified. Any access roads crossing Federal or Indian lands that are needed to haul the water shall be described in items G.4.b. (1) and (2), as appropriate. If a water supply well is to be drilled on the lease, it shall be so stated under this item, and the authorized officer of BLM may require the filing of a separate APD.

(6) *Construction Materials.* The lessee or operator shall state the character and intended use of all construction materials, such as sand, gravel, stone and soil material. If the materials to be used are Federally-owned, the proposed source shall be shown by either quarter-quarter section on a map or plat, or a written description. The use of materials under BLM jurisdiction is governed by 43 CFR 3610.2–3. The authorized officer shall inform the lessee or operator if the materials may be used free of charge or if an application for sale is required. If the materials to be used are Indian owned or under the jurisdiction of SMA other than BLM, the specific tribe and or Area Superintendent of BIA, or the appropriate SMA office shall be contacted to determine the appropriate procedure for use of the materials.

(7) *Methods for Handling Waste Disposal.* A written description shall be given of the methods and locations proposed for safe containment and disposal of each type of waste material (e.g., cuttings, garbage, salts, chemicals, sewage, etc.) that results from the drilling of the proposed well. Likewise, the narrative shall include plans for the eventual disposal of drilling fluids and any produced oil or water recovered during testing operations.

(8) *Ancillary Facilities.* The plans, or subsequent amendments to such plans, shall identify all ancillary facilities such as camps and airstrips as to their location, land area required, and the

methods and standards to be employed in their construction. Such facilities shall be shown on a map or plat. The approximate center of proposed camps and the center line of airstrips shall be staked on the ground.

(9) *Well Site Layout.* A plat of suitable scale (not less than 1 inch=50 feet) showing the proposed drill pad and its location with respect to topographic features is required. Cross section diagrams of the drill pad showing any cuts and fills and the relation to topography are also required. The plat shall also include the proposed location of the reserve and burn pits, access roads onto the pad, turnaround areas, parking areas, living facilities, soil material stockpiles, and the orientation of the rig with respect to the pad and other facilities. Plans, if any, to line the reserve pit shall be detailed.

(10) *Plans for Reclamation of the Surface.* The program for surface reclamation upon completion of the operation, such as configuration of the reshaped topography, drainage system, segregation of spoils materials, surface manipulations, waste disposal, revegetation methods, and soil treatments, plus other practices necessary to reclaim all disturbed areas, including any access roads or portions of well pads when no longer needed, shall be stated. An estimate of the time for commencement and completion of reclamation operations, dependent on weather conditions and other local uses of the area, shall be provided.

(11) *Surface Ownership.* The surface ownership (Federal, Indian, State or private) at the well location, and for all lands crossed by roads which are to be constructed or upgraded, shall be indicated. Where the surface of the well site is privately owned, the operator shall provide the name, address and telephone number of the surface owner, unless previously provided.

(12) *Other Information.* The lessee or operator is encouraged to submit any additional information that may be helpful in processing the application.

(13) *Lessee's or Operator's Representative and Certification.* The name, address and telephone number of the lessee's or operator's field representative shall be included. The lessee or operator submitting the APD shall certify as follows:

I hereby certify that I, or persons under my direct supervision, have inspected the proposed drill site and access route; that I am familiar with the conditions which currently exist; that the statements made in this plan are, to the best of my knowledge, true and correct; and that the work associated with operations proposed herein will be performed by ———— and its contractors and subcontractors in conformity with this plan and the terms and conditions under which it is approved. This statement is subject to the provisions of 18 U.S.C. 1001 for the filing of a false statement.

Date ————.
Name and Title ————.

5. *Environmental Review Requirements.*

When an onsite inspection is conducted, it shall be made by representatives of the authorized officer and the operator, and other interested parties such as the involved SMA, the appropriate Alaska Borough (when a subsistence stipulation is part of the lease), and the operator's principal (construction and drilling) contractors. It is recommended that, when appropriate, the operator's surveyor and archeologist should also participate in the inspection. The purpose of this inspection shall be to ensure the staked location, access roads and other areas proposed for surface disturbance are geologically and environmentally acceptable, giving appropriate consideration to all applicable Federal laws and regulations. Lessees and operators are encouraged to designate their future drilling sites so that several locations may be inspected at one time.

a. *Federal Responsibilities.* When an inspection is made, the information obtained shall be utilized by BLM in appraising the environmental effects associated with the proposed action and in preparing pertinent portions of the required environmental documentation. As the approving agency, BLM has the lead responsibility for completing the environmental review process and establishing the terms and conditions under which the proposed action may be approved. The conduct of the environmental review process, under the Department of the Interior's implementing procedures pursuant to the National Environmental Policy Act, will result in the preparation of a Record of Review (ROR) and/or an EA, consistent with pertinent regulations and procedures. This review shall identify the probable and potential environmental impacts associated with the proposal and methods for mitigating these impacts and shall be the basis of the approving official's determination as to whether approval of the proposed activity would or would not constitute a major Federal action significantly affecting the quality of the human environment as defined by section 102(2)(C) of the National Environmental Policy Act of 1969. A "would constitute" determination shall necessitate the preparation of an EIS. In that case, final action on the APD shall not be taken until the EIS and Record of Decision are completed.

b. *Other Considerations.* Lessees and operators are strongly encouraged to file their NOS and/or complete APD at least 30 days in advance of the time when they wish to commence operations and to consult with the involved SMA as early as possible to identify potential areas of concern (see sections III. E. and F.).

IV. *Subsequent Operations.* Subsequent operations shall be conducted in accordance with 43 CFR Part 3160, formerly 30 CFR 221. However, where the proposed subsequent operation will result in the well being converted for injection purposes (disposal or production enhancement), lessees and operators also shall obtain an underground injection permit from EPA or the State, where the State has achieved primacy. Any information submitted in support of obtaining that permit shall be accepted by the authorized officer of BLM to the extent that it satifies the information submittal requirements of this Order.

A. *Well and Production Operations.* Before conducting further well operations that involve change in the original plan, a detailed written statement of the work shall be filed on Form 3160–5 or 3160–3 , as appropriate, with the authorized officer and approval obtained before the work is started. These operations include redrilling, deepening, performing casing repairs, plugging-back, altering casing, performing nonroutine fracturing jobs, recompleting in a different interval, performing water shut-off, and converting to injection or disposal. Within 30 days of the completion of such operations, a subsequent report shall be filed on Form 3160–5 and, if the well is recompleted, a recompletion report on Form 3160–4, pursuant to 43 CFR 3162.3–2 and the information collection approval note, formerly 30 CFR 221.27 and 221.2–1.

Unless additional surface disturbance is involved and so long as the operations conform to the standard of prudent operating practice, no prior approval is required for routine fracturing or acidizing jobs, or recompletion in the same interval, but a subsequent report of these operations shall be filed on Form 3160–5, formerly 9–331, within 30 days of completion, pursuant to 43 CFR 3162–2.3 and the information collection approval note, formerly 30 CFR 221.27 and 221.2–1.

Neither prior approval nor a subsequent report is required for well

clean-out work, routine well maintenance (such as pump, rods, and tubing work), or for repair, replacement, or modification of surface production equipment, provided no additional surface disturbance is involved. However, the modification of any production, treating, and measurement facilities shall require the submission of a revised schematic diagram within 30 days of the completion of such operations, pursuant to 43 CFR 3162.7–2, formerly 30 CFR 221.34.

B. *Surface Disturbing Operations.* Pursuant to 43 CFR 3162.3–2 and 3162.3–3, formerly 30 CFR 221.27 and 221.28, lessees and operators shall submit, for the approval of the authorized officer, a proposed plan of operations on Form 3160–5 prior to undertaking any subsequent new construction, reconstruction, or alteration of existing facilities including, but not limited to, roads, emergency pits, firewalls, flowlines, or other production facilities on any lease when additional surface disturbance will result. If, at the time the original APD was filed, the lessee or operator elected to defer submitting information for item III.G.4.b.(4), "Location of Existing and/or Proposed Facilities if Well is Productive," the lessee or operator shall supply this information for approval prior to construction and installation of the facilities. The authorized officer, in consultation with any other involved SMA, may require a field inspection before approving the proposal.

C. *Emergency Repairs.* Emergency repairs may be conducted without prior approval provided that the authorized officer is promptly notified. Sufficient information shall be submitted to permit a proper evaluation of any resultant surface disturbing activities as well as any planned accommodations necessary to mitigate potential adverse environmental effects.

D. *Environmental Review.* The environmental review procedures discussed in section III.G.5. of this Order shall also apply to subsequent operations which involve additional surface disturbance.

V. *Well Abandonment.* No well abandonment operations may be commenced without the prior approval of the authorized officer. In the case of newly drilled dry holes or failures and in emergency situations, oral approval may be obtained from the authorized officer subject to prompt written confirmation. For old wells not having an approved abandonment plan, a sketch showing the disturbed area and roads to be abandoned, along with the proposed reclamation measures, shall be submitted with Form 3160–5. On Federal and Indian surface, the appropriate SMA may request additional reclamation measures at abandonment, which normally shall be made a part of BLM's approval of abandonment. Within 30 days following completion of the well abandonment, the lessee or operator shall file with the authorized officer of BLM a Subsequent Report of Abandonment on Form 3160–5, in accordance with 43 CFR Part 3160, formerly 30 CFR Part 221. Upon completion of reclamation operations, the lessee or operator shall notify the authorized officer when the location is ready for inspection, via an additional Form 3160–5. Final abandonment shall not be approved until the surface reclamation work required by the approved drilling permit or approved abandonment notice has been completed to the satisfaction of the involved SMA.

VI. *Water Well Conversion.* The complete abandonment of a well which has encountered usable fresh water shall not be approved if the SMA or surface owner wants to acquire the well. If, at abandonment, the SMA or surface owner elects to assume further responsibility for the well, the SMA or surface owner, as appropriate, shall reimburse the lessee or operator for the cost of any recoverable casing or wellhead equipment which is to be left in or on the hole solely because it is to be completed as a water well. The lessee or operator shall abandon the well to the base of the deepest fresh water zone of interest, as required by the authorized officer, and shall complete the surface cleanup and reclamation, as required by the approved drilling permit or approved abandonment notice, immediately upon completion of the conversion operations.

VII. *Privately Owned Surface.*—A. *Federal oil and gas leases.* Where the well site and access road surface are privately owned or are held in trust for Indian benefit, the lessee or operator is responsible for reaching an agreement with BIA or the private surface owner as to the requirements for the protection of surface resources and reclamation of disturbed areas and/or damages in lieu thereof. However, if the authorized officer or any other involved SMA determines that the surface of Federal or Indian-owned lands in proximity to the proposed well site or access road on private surface will be significantly affected, the lessee or operator may be required to furnish a copy of any existing agreement between the lessee or operator and the surface owner to the authorized officer. If the agreement on private surface is considered inadequate to protect the surface of adjacent Federal or Indian-owned lands, the authorized officer or other involved SMA may prescribe additional measures to protect the adjacent Federal or Indian lands. In the event there is no agreement between the surface owner and the operator, the operator may comply with the provisions of the law or the regulations governing the Federal or Indian right of reentry to the surface (See Subpart 3814 of this title) and the authorized officer may then proceed to issue the permit.

B. *Indian oil and gas leases.* Where the well site and access road surface are privately owned or are held in trust for an Indian or Indian tribe other than the owner of the oil and gas rights, the lessee or operator is responsible for reaching an agreement with the surface owner (or the BIA if the surface is held in trust for numerous or unlocatable Indian owners) as to the requirement for the protection of surface resources and reclamation of disturbed areas and/or damages in lieu thereof. However, if the authorized officer or any other involved SMA determines that the surface of

Federal or Indian-owned lands in proximity to the proposed well site or access road on private surface will be significantly affected, the lessee or operator may be required to furnish the authorized officer a copy of any existing agreement between the lessee or operator and the surface owner. If the agreement on private surface is considered inadequate to protect the surface of adjacent Federal or Indian-owned lands, the authorized officer or other involved SMA may prescribe additional measures to protect the adjacent Federal or Indian-owned lands. In the event there is no agreement between the surface owner and the operator, the authorized officer may permit the operator to conduct operations if he/she determines that: (1) a good faith effort has been made by the operator to reach agreement with the surface owner; (2) adequate security is posted, in the form of a bond, escrow account or by other means, to compensate the surface owner for any damages; and (3) there is no legal obstacle to conducting operations in the absence of surface owner consent.

VIII. *Reports and Activities Required After Well Completion.* Within 30 days after the well completion, the lessee or operator shall furnish 2 copies of Form 3160–4, formerly 9–330 (Well Completion or Recompletion Report and Log) to the authorized officer. However, no later than the fifth business day after any well begins production anywhere on a lease site or allocated to a lease site, or resumes production in the case of a well that has been off production for more than 90 days, the lessee or operator shall notify the authorized officer of the date on which production has begun or resumed.

The notification may be provided orally if promptly confirmed in writing.

Dated: August 9, 1983.

Jeffrey F. Zabler,

Acting Assistant Director for Fluid Leasable Minerals.

Approved:

Dated: August 17, 1983.

Arnold E. Petty,

Acting Associate Director, Bureau of Land Management.

BILLING CODE 4310–84–M

Attachment A

SAMPLE FORMAT

NOTICE OF STAKING (Not to be used in place of Application for Permit to Drill Form 3160-3)	6. Lease Number
1. Oil Well ☐ Gas Well ☐ Other (Specify)	7. If Indian, Allottee or Tribe Name
2. Name of Operator:	8. Unit Agreement Name
3. Name of Specific Contact Person:	9. Farm or Lease Name
4. Address & Phone No. of Operator or Agent	10. Well No.
5. Surface Location of Well Attach: a) Sketch showing road entry onto pad, pad dimensions, and reserve pit. b) Topographical or other acceptable map showing location, access road, and lease boundaries.	11. Field or Wildcat Name 12. Sec., T., R., M., or Blk and Survey or Area

15. Formation Objective(s)	16. Estimated Well Depth	13. County, Parish or Borough	14. State

17. Additional Information (as appropriate; must include surface owner's name, address, and telephone number)

18. Signed _____ Title _____ Date _____

Note: Upon receipt of this Notice, the Bureau of Land Management (BLM) will schedule the date of the onsite predrill inspection and notify you accordingly. The location must be staked and access road must be flagged prior to the onsite.

Operators must consider the following prior to the onsite:

a) H_2S Potential
b) Cultural Resources (Archeology)
c) Federal Right of Way or Special Use Permit

IMPORTANT: SEE REVERSE SIDE FOR INSTRUCTIONS

BILLING CODE 4310-84-C

Instructions for Preparation of Attachment A

General: This provides notice to the Bureau of Land Management (BLM) that staking has been (or will be) completed for well locations on Federal or Indian leases and serves as a request to schedule an onsite inspection. The original and one copy of this notice, together with a map and sketch, should be submitted to the appropriate BLM office.

Any item not completed may be justification for not promptly scheduling the onsite inspection.

Specific Considerations: Items included herein should be reviewed and evaluated thoroughly prior to the onsite. These items affect placement of location, road, and facilities. Failure to be prepared with complete, accurate information at the onsite may necessitate later re-evaluation of the site and an additional onsite inspection.

a. H_2S Potential: Prevailing winds, escape routes, and placement of living quarters must be considered.

b. Cultural Resources: Archeological surveys, if required, should be done prior to, during or immediately following the onsite. Changes in location due to subsequent archeological findings may require an additional onsite. Contact involved Surface Management Agency (SMA) for detailed site specific requirements.

c. Federal Right-of-Way or Special Use Permit: Access roads outside the leasehold boundary which cross Federal lands will require a right-of-way grant or special use permit and should be discussed with the BLM or other involved SMA at the time of filing the Notice of Staking.

Supplemental Checklist: The following items, if applicable, should be submitted with or prior to the Application For Permit to Drill (APD) to ensure timely approval of the application. Contact the BLM regarding specific requirements relating to each item.

a. Bonding.

b. Designation of Operator.

c. Report of Cultural Resources/ Archeology.

d. H_2S Contingency Plan.

e. Status of Plan of Development and Designation of Agent for wells in Federal units.

f. Federal Right-of-Way (BLM) or Special Use Permit (Forest Service).

Timetable: The onsite inspection will be scheduled and conducted by the BLM within 15 days after receipt of this notice. Surface protection and rehabilitation requirements will be made known to the operator by the BLM during the onsite or no later than 5 working days from the date of inspection, barring unusual circumstances. These requirements are to be incorporated into the complete APD. However, this does not exclude the possibility of additional conditions of approval being imposed.

Attachment B

Date:— _____

Bureau of Land Management

Checklist for Applicant Notification

Receipt and Acceptability of Application for Permit To Drill (APD)

Lease No.————
Well No.————
Lessee————
Operator————
Date APD Received————

1.—APD complete as submitted.

2.—APD is deficient in the following area(s) *and* (see items 3, 4, or 5 below):

—Designation of Operator
—Designation of Agent under————unit agreement
—Bonding
—Cultural Resources Report (depends on Federal Surface Management Agency's Requirements
—Form 9–331C
—Drilling Plan
—Other

(Refer to attachment(s) for any specifics)

3.—APD is retained; to be processed upon receipt of further information as noted above.

4.—APD is being processed; final action pending receipt of further information as noted above.

5.—APD is returned for the following reasons:————

Note:— A returned APD herewith may be resubmitted when convenient at which time it will be reviewed again for technical and administrative completeness.

A retained but deficient APD must be brought to a technically and administratively acceptable level of completion within 45 days of the date of this notice or the application will be returned unapproved.

[FR Doc. 83-28642 Filed 10-20-83; 8:45 am]
BILLING CODE 4310-84-M

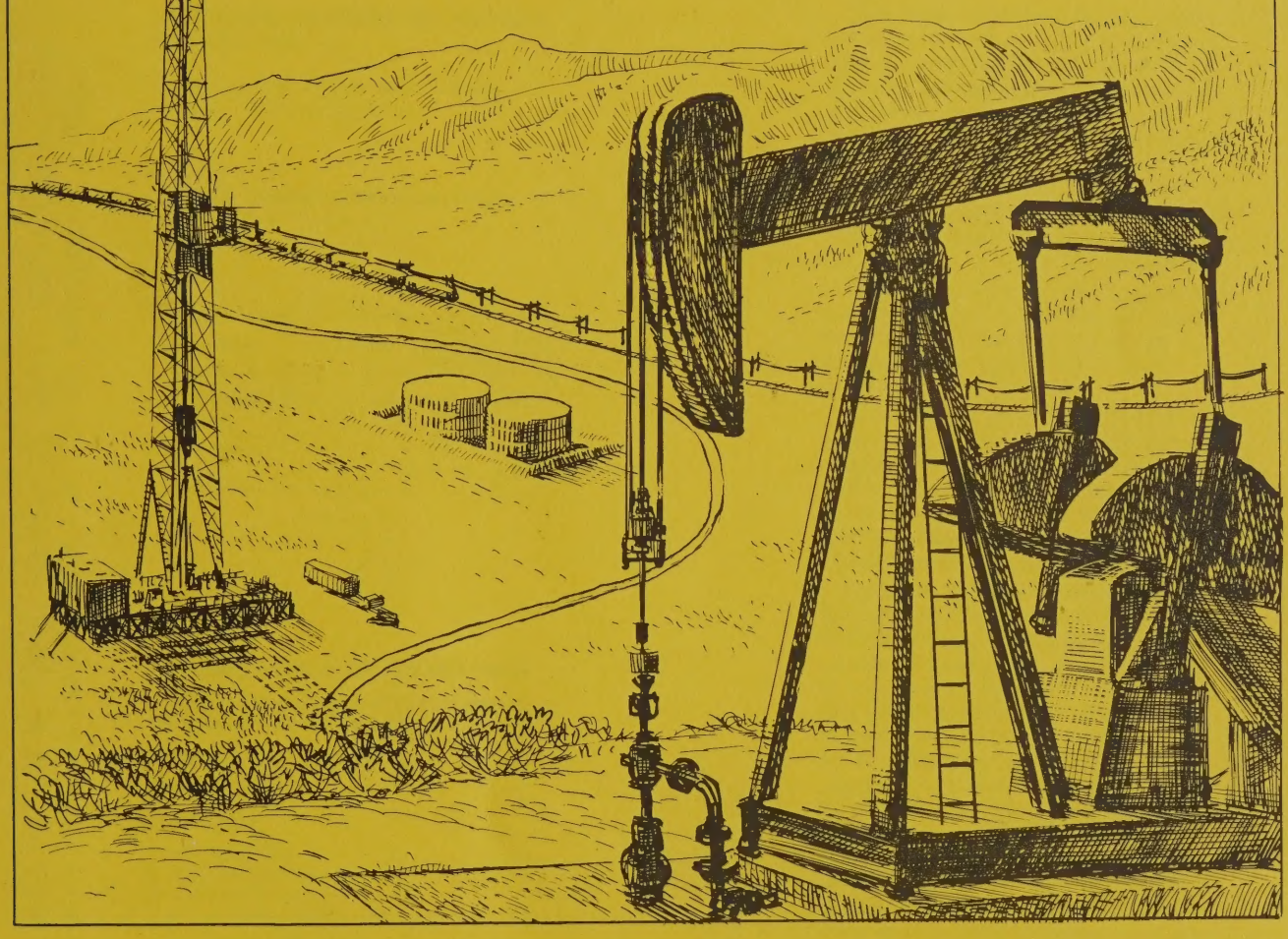
Circular
No. 2538

Onshore Oil and Gas Order

1984 FEB -8 AM 9:50

RECEIVED
MONTANA STATE OFFICE
BILLINGS, MONTANA

No. 1
Approval of Operations on Onshore Federal and Indian Oil and Gas Leases.



Issued Under
43 CFR 3164

U.S. DEPARTMENT OF THE INTERIOR
BUREAU OF LAND MANAGEMENT.

Published in 48 F.R. 48916, October 21, 1983 - Effective November 21, 1983.
and Corrections Published in 48 F.R. 56226, December 20, 1983.

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

43 CFR Part 3160

[Circular No. 2538]

Onshore Oil and Gas Order No. 1; Approval of Operations on Onshore Federal and Indian Oil and Gas Leases

Under the authority of the Act of February 25, 1920, as amended and supplemented (30 U.S.C. 189, 226), and Executive Order 12291 (46 FR 13193), Part 3160, Group 3100, Subchapter C, Chapter II of Title 43 of the Code of Federal Regulations is amended as set forth below.

PART 3160—ONSHORE OIL AND GAS OPERATIONS

Section 3164.1(b) is amended by adding the following table:

§ 3164.1 Onshore Oil and Gas Orders.

* * * * *

(b) * * *

Order No.	Subject	Effective date	FEDERAL REGISTER reference	Supersedes
1	Approval of operations.	Nov. 21, 1983	48 FR 48916, and 48 FR.	NTL-6.

Appendix—Text of Oil and Gas Order

Note.—This appendix will not appear in the Code of Federal Regulations.

Contents

Onshore Order

Introduction

I. Accountability
II. Special Situations
III. Drilling Operations
  A. Surveying and Staking
  B. Material to be Filed
    1. Notice of Staking
    2. Application for Permit to Drill
  C. Conferences and Inspections
  D. Processing Time Frames
  E. Cultural Resources Clearance
  F. Threatened and Endangered Species Clearance and Other Critical Environmental Concerns
  G. Components of a Complete Application for Permit to Drill
IV. Subsequent Operations
  A. Production Facilities
  B. Other Operations
  C. Emergency Repairs
  D. Environmental Review
V. Well-Abandonment
VI. Water Well Conversion
VII. Privately Owned Surface
VIII. Reports and Activities Required After Well Completion

Onshore Oil and Gas Order

Federal and Indian Oil and Gas Leases

Order No. 1

Effective: November 21, 1983

Approval of Operations

Introduction

This Order is established pursuant to the authority prescribed in 43 CFR Part 3160, formerly 30 CFR 221. Approval of all proposed exploratory, development, and service wells, and all required approvals of subsequent well operations and other lease operations, shall be obtained in accordance with 43 CFR 3162.3–1, 3162.3–2, 3162.3–3, 3162.3–4 and 3162.5–1, formerly 30 CFR 221.23, 221.27, 221.28, 221.29, or 221.30, as appropriate.

All wells approved for drilling under the provisions of this Order shall have been included in a drilling plan, as required under 43 CFR 3162.3–1(d), formerly 30 CFR 221.23(d).

A drilling plan may be submitted for a single well, or for several wells that are proposed to be drilled to the same zone within a field or area of geological and environmental similarity. Plans for additional development of the leasehold should be considered in the submittal.

However, approval of Form 3160–3, formerly 9–331C (Application for Permit to Drill, Deepen, or Plug Back) is required for each well, and in order to be complete an Application for Permit to Drill (APD) shall include all information required under 43 CFR 3162.3–1 (d) and (e). A technically and administratively complete APD includes, in addition to Form 3160–3, a drilling plan, evidence of bond coverage, a designation of operator, when appropriate, and such other information as may be required by applicable Order or Notice to evaluate the proposal. Refer to section III.G. for more detailed guidance on complete APD's.

Certain subsequent well operations and other lease operations involving additional surface disturbance shall be included in a plan submitted on Form 3160–5, formerly 9–331 (Sundry Notices and Reports On Wells), and approved under the provisions of this Order pursuant to 43 CFR 3162.3–2 or 3162.3–3, formerly 30 CFR 221.27 or 221.28, respectively.

A report on all subsequent well operations shall be filed on Form 3160–5, as prescribed in 43 CFR 3162.3–2. A notice of intention to abandon a well and a subsequent report of abandonment shall also be filed on

Form 3160–5, as required by 43 CFR 3162.3–4.

All applications for approval under the provisions of this Order shall be submitted to the appropriate authorized officer of the Bureau of Land Management (BLM). "Authorized Officer" means any person authorized to perform the duties prescribed. To be advised of the proper BLM official and office with which to file an application, the lessee/operator may contact the appropriate District Manager of BLM having jurisdiction over lease operations in a particular area.

The lessee/operator shall comply with the following requirements:

I. *Accountability.* Lessees and operators have the responsibility to see that their exploration, development, production, and construction operations are conducted in a manner which (1) conforms with applicable Federal laws and regulations and with State and local laws and regulations to the extent that such State and local laws are applicable to operations on Federal or Indian leases; (2) conforms with the lease terms, lease stipulations, and conditions of approval; (3) results in diligent development and efficient resource recovery; (4) protects the lease from drainage; (5) affords adequate safeguards for the environment; (6) results in the proper reclamation of disturbed lands; (7) conforms with current available technology and practice; (8) assures that underground sources of fresh water will not be endangered by any fluid injection operation; and (9) otherwise assures the protection of the public health and safety. Lessees and operators shall be held fully accountable for their contractors' and subcontractors' compliance with the requirements of the approved permit and/or plan. Drilling/construction and associated operations shall not be conducted without prior approval of the authorized officer of BLM. BLM approval of the APD does not relieve the lessee and operator from obtaining any other authorizations required for operations on Federal and Indian lands.

II. *Special Situations.* Lessees and operators, as well as their contractors and subcontractors, shall not commence any operation or construction activity on a lease, other than cultural resource inventories and surveying and staking well locations on Federal and Indian lands, without the prior approval of the authorized officer of BLM, except for certain subsequent operations (see Section IV. of this Order). The terms and conditions of an approved permit and drilling plan, or other plan, shall not be altered unless BLM first has approved an amended or supplemental permit and/or plan covering any such modifications.

For proposed operations on a committed State or fee tract in a Federally supervised unit or communitized tract, the operator shall furnish a copy of the approved State permit to the authorized officer of BLM which will be accepted for record purposes. In addition, in cases where an access road to a non-Federal or non-Indian drillsite will cross leased Federal or Indian lands, the operator shall submit a surface use plan only for those portions of the access road on Federal or Indian lands where new construction or reconstruction will occur. Such plans shall be submitted to the authorized officer of BLM or appropriate Federal Surface Management Agency (SMA) and approval obtained prior to commencement of construction operations on the Federal or Indian surface. For privately owned surface, refer to section VII.

III. *Drilling Operations.*

A. *Surveying and Staking.* Surveying and staking may be done without advance approval from the authorized officer of BLM or other appropriate SMA and prior to the conduct of any required cultural resource inventory, except for lands administered by the Department of Defense or other lands used for military purposes, or where significant surface disturbance is likely to occur.

Lessees and operators are strongly encouraged to notify the appropriate SMA prior to entry upon the lands for the purposes of surveying and staking. Early notification will allow the SMA to apprise the lessees and operators of any existing conditions, knowledge of which could result in saving of time and money by both industry and Government. These include but are not limited to:

—Whether a cultural resource inventory is required;
—Presence of threatened or endangered species and/or critical habitats;
—Vehicle access restrictions; and/or
—Permitting requirements applicable to affected lands outside the leasehold boundary.

Where the surface is privately owned or held in trust of Indian benefit, the lessee/operator is responsible for making access arrangements with the private surface owner or the Bureau of Indian Affairs (BIA) and Indian tribe or Indian allottee(s) prior to entry upon the lands for the purpose of surveying and staking.

Staking shall include the well location, two 200-foot directional reference stakes, the exterior dimensions of the drill pad, reserve pit and other areas of surface disturbance, cuts and fills, and centerline flagging of new roads with road stakes being visible from one to the next. Cut and fill staking applies only to the wellsite, reserve pit, and, if off-location, any ancillary facilities.

B. *Material to be Filed.*

1. *Notice of Staking.* Prior to filing a complete APD, the lessee or operator may, at its option, file a Notice of Staking (Attachment A) with the authorized officer of BLM and appropriate office of any other involved SMA. In Alaska, a copy of the Notice shall also be sent to the appropriate Borough and/or Native Regional or Village Corporation when a subsistence stipulation is part of the lease.

The information contained in the Notice of Staking (NOS) will aid in identifying the need for associated rights-of-way and special use permits. If all required information is not included, the NOS shall be returned to the operator for modification.

2. *Application for Permit to Drill (APD).* Regardless of whether an NOS is filed, the lessee or operator shall file an APD. This application shall be administratively and technically complete prior to approval. The authorized officer of BLM shall advise the lessee or operator, within 7 working days of receipt of the application, as to whether or not the application is complete. If the application is complete, oral notification will suffice. If the application is not complete, notification to that effect shall be made in writing even though the lessee or operator may have already received oral notification. For purposes of written notification, Attachment B, Checklist For Applicant Notification, shall be mailed to the applicant within the 7-day period. The notification shall advise the lessee or operator of any defects that need correcting and of any additional information required. If the deficiencies are not corrected and/or the additional required information is not submitted within 45 days of the date of any oral or written notice (if no prior oral notice), the application shall be returned to the proponent.

Upon initiation of the APD process, the authorized officer of BLM shall consult with any other involved SMA and with other appropriate interested parties, and shall take one of the following actions within 30 days: (1) approve the application as submitted or with appropriate modifications or stipulations; (2) return the application and advise the lessee or operator of the reasons for disapproval; or (3) advise the lessee or operator, either in writing or orally with subsequent written confirmation, of the reasons why final action will be delayed and the date such final action is expected.

When the NOS option is followed, BLM shall strive to process the subsequent related APD within 10 days of the APD's receipt. However, in either situation, the process of reviewing the APD and advising the lessee or operator as to whether it is technically and administratively complete shall be considered a part of the overall APD processing time, i.e., 30 days in case of the APD option and 10 days if the NOS process is utilized. Operators are cautioned that with respect to any particular well, the option selected initially, of either filing both an NOS

and a subsequent APD or only an APD, is to be followed and there shall be no shifting between the two options. If operators fail to maintain a consistent approach in this regard, the processing time already expended shall not be counted as part of the above 30-day period.

The processing of applications shall be given a high priority, and individual applications shall be processed according to the date the application is received by the appropriate BLM office. If it is not possible for BLM actions to be taken prior to lease expiration, the lessee or operator shall be advised, at least orally, prior to the lease expiration date, with all such notifications confirmed in writing. Said advice shall detail the reasons for delay so that the lessee or operator may take such appeal or other recourse to preserve the lease as is allowed by law and/or regulation. The appropriate BLM office telephone number and address shall be furnished to the lessee or operator with the earliest notification or advice.

C. *Conferences and Inspections.* An onsite predrill inspection shall be scheduled and conducted by the appropriate BLM office within 15 days of receiving the applicant's initially-filed document, i.e., either an NOS or a complete APD. In special circumstances, such as those areas enumerated in section III. D., the authorized officer of BLM may require the filing of a complete APD prior to the scheduling of an onsite predrill inspection. Representatives of the appropriate BLM office, the operator and other interested parties, such as any other involved SMA, the appropriate Alaska Borough and/or Native Regional or Village Corporation (when a subsistence stipulation is part of the lease), and the operator's principal dirt contractor and, if known, drilling contractor, shall attend the predrill inspection. When appropriate, the operator's surveyor and archeologist should also participate in the inspection. If any other involved SMA is not able to participate at the desired time, the inspection may be rescheduled provided it can be conducted within the 15-day period. When private surface is involved, the lessee or operator shall furnish the name, address and, if known, telephone number of the private surface owner on the NOS form or, in the surface use program, such information shall be attached to the APD. The BLM shall invite the surface owner to participate in the onsite inspection. This invitation will be extended as early as possible. However, a surface owner's inability to attend shall not delay the scheduled inspection unless BLM can conveniently reschedule the inspection within the 15-day time period. Joint inspections, i.e., those involving any other SMA, normally shall not be held for proposed in-fill well locations in developed fields if an appropriate environmental assessment (EA) already has been completed by BLM for the field or that area of the field. However, if staffing permits, a representative of BLM shall inspect those proposed locations where a joint predrill inspection is not held. At the time of onsite inspection, staking of the location shall have occurred, as specified in part A of this section.

The surface use and reclamation stipulations shall be developed during the onsite inspection and provided to the operator either at the location or within 5 working days from the date of the onsite inspection, barring unusual circumstances. These requirements shall be incorporated into the complete application, when filed, if the proponent is following the NOS option. Otherwise, these requirements shall be incorporated as conditions of the APD approval if an NOS is not filed. However, this does not preclude the possibility of additional conditions being imposed as a result of the review of the complete application.

D. *Processing Time Frames.* The following table summarizes the major time frames involved in processing most APD's:

APD OPTION

Action items	Days
Onsite inspection	Within 15 days after receipt of the APD.
Requirements to be imposed when APD is approved.	Developed onsite or within 5 working days thereafter.
Complete processing of APD.	Within 30 days of the APD's receipt, provided that it is technically and administratively complete at the end of the 30-day period (includes the above 15-day and 5-day periods).

NOS OPTION

Action items	Days
Onsite inspection	Within 15 days after receipt of the NOS.
Requirements for inclusion in APD.	Furnished onsite or within 5 working days thereafter.
Complete processing of APD.	Within 10 days of the APD's receipt, provided that it is technically and administratively complete at the end of the 10-day period.

The above timeframes together comprise the total period during which BLM anticipates it will be able to process approximately 90 percent of all APD's. However, the 30 days may not run consecutively even when APD's are filed immediately after onsite inspections. For example, any time used by lessees or operators to correct deficiencies, or to prepare and submit information initially omitted from the application and which causes delays in processing beyond BLM's control, shall not be counted as part of the 30-day period. However, BLM shall continue to process applications up to the point where any missing piece of information or an uncorrected deficiency renders further processing impractical or impossible. Processing delays which extend the 30-day processing time are expected to occur in less than 5 percent of the cases. In addition, delays in conducting onsite inspections within 15 days of receiving an NOS (or an APD if an NOS is not filed), or delays in providing all stipulations to the operator within 5 working days of an onsite inspection may occur in less than 5 percent of the cases during periods of severe weather conditions and in areas where certain environmental concerns or jurisdictional conflicts exist.

Such areas include, but are not limited to:

1. Certain tribally or individually owned Indian trust or restricted lands.
2. Lands withdrawn for Federal reservoirs and Federal lands surrounding such reservoirs.
3. Lands in formally designated wilderness areas, lands formally proposed for such designation, lands within BLM Wilderness Study Areas or lands within Forest Service Further Planning Areas.
4. National Recreation Areas.
5. Wildife Refuges.
6. Certain Federal lands in Alaska.
7. Lands under jurisdiction of the Department of Defense.
8. Lands where a major problem exists with respect to cultural resources.
9. Lands known to contain threatened or endangered species and/or critical habitats.

The 30-day time frame for completion of the APD process may sometimes be exceeded where it is necessary to prepare an EA, and in all cases where it is necessary to prepare an environmental impact statement (EIS).

Lessees and operators are also cautioned that if the NOS/APD process begins less than 30 days prior to the desired date of commencement of drilling operations, the process may not be completed within the time desired.

E. *Cultural Resources Clearance.* Because consultation with the involved SMA and the State Historic Preservation Officer on matters that relate to the protection of historic and cultural resources is provided in BLM (36 CFR 800.4(a)(1)), lessees and operators should contact the involved SMA at least 15 days prior to the submission of an NOS or APD to determine whether any actions are necessary to locate and identify historic and cultural resources.

Survey work and a related report shall be required only if the involved SMA has reason to believe that properties listed, or eligible for listing, in the National Register of Historic Places (NRHP) are present in the area of potential effect. If such actions are necessary, lessee and operators are to complete the field work and submit the required report with the complete APD submittal, when following the NOS option, or not later than the 25th day of the 30-day

processing period, when following the APD option. } Insert follows

Historic and cultural resources work on privately owned surface shall be undertaken only with the consent of the private surface owner. If the private surface owner refuses entry for that purpose, the lessee or operator shall use its best efforts to conduct its approved operations in a manner that avoids adverse effects on any properties which are listed, or may be eligible for listing, in the NRHP.

hazards. If any of these concerns exist, information in that regard shall be conveyed to the lessee/operator by BLM no later than when the surface use and reclamation stipulations are provided; however, the lessee/operator can ensure earlier identification of potential conflict in these areas of concern by contacting the involved SMA prior to the submittal of an NOS or APD. The authorized officer of BLM should be timely apprised of any contacts with any other involved SMA.

G. *Components of a Complete Application for Permit to Drill.*

1. *Complete Application.* If an NOS is filed, the lessee/operator shall prepare and submit a complete APD within 45 days of the onsite inspection pursuant to the requirements of this subsection. Failure to timely submit an APD within this time frame may result in the lessee/operator having to repeat the entire process. The complete APD shall be submitted in triplicate to BLM, together with any additional copies required by the authorized officer. As provided in 43 CFR 3162.3–1(d), formerly 30 CFR 221.23(d), a complete application consists of:

(a) Form 3160–3, (b) a drilling plan (or reference thereto) containing information required by section G.4., below, (c) evidence of bond coverage as required by Department of the Interior regulations, (d) designation of operator, where necessary, and (e) such other information as may be required by applicable Orders and Notices. The APD shall be signed by the lessee/operator official having the responsibility and authority to supervise and direct all activities related to the permit and who can be contacted in the event of a problem. The authorized officer may require additional information in unusual circumstances. However, where the proposed well is to be completed for injection purposes (disposal or production enhancement), lessees and operators also shall obtain an underground injection permit from the Environmental Protection Agency (EPA) or the State, where the State has achieved primacy. Any information submitted in support of obtaining that permit shall be accepted by the authorized officer to the extent that it satisfies the information submission requirements of this Order.

2. *Designation of Operator.* The lessee may authorize the actual conduct of
in its behalf by designating
rty as operator in a manner
acceptable to the authorized
ssees shall notify the
l officer in writing whenever
g designation of operator is
A designated operator cannot
a different party as operator.
3160–3, formerly 9–331C,
on for Permit to Drill, Deepen,
ck). This Form shall be
in full and submitted to the
l officer together with all
information referred to under
1. above. The following points a. through f. are specific as to appropriate information requirements of the Form and shall be stated thereon, or as an attachment thereto, for each proposed well:

a. A well location plat shall be attached depicting the proposed location, as determined by a registered surveyor, in feet and direction from the nearest section lines of an established public land survey or, in areas where there are no public land surveys, by such other method as is acceptable to the authorized officer. The plat shall be signed by the surveyor, certifying that the location has, in fact, been staked on the grounds as shown on the plat.

b. The elevation given shall be the above-sea-level datum of the unprepared ground.

c. The type of drilling tools to be utilized shall be stated.

d. The proposed casing program shall include the size, grade, weight, type of thread and coupling, and setting depth of each string, and whether it is new or used.

e. The amount and type of cement, including additives to be used in setting each casing string, shall be described. If stage-cementing techniques are to be employed, the setting depth of the stage collars and amount and type of cement, including additives, to be used in each stage shall be given. The expected linear fill-up of each cemented string or each stage, when utilizing stage-cementing techniques, shall be provided.

f. The anticipated duration of the total operation shall be given in addition to the anticipated starting date.

A copy of the approved Form 3160-3 and the pertinent drilling plan, along with any conditions of approval, shall be available at the drillsite to authorized or delegated representatives of the United States whenever active construction, drilling, or completion operations are under way.

4. *Drilling Plan.* A drilling plan in sufficient detail to permit a complete appraisal of the technical adequacy of, and environmental effects associated with, the proposed project shall be prepared and either submitted with each copy of Form 3160–3, or referenced thereon if it is already on file with BLM or is being submitted for more than one well. The plan shall be developed in conformity with the provisions of the lease, including attached stipulations, and the guidelines provided by this Order or other land use documents. Each drilling plan shall contain a description of the drilling program and surface use program. The BLM shall send a copy of appropriate parts of the plan to any other involved SMA and may send a copy of the plan to other interested Federal, State, and local agencies. All information identified as proprietary by the applicant pursuant to 43 CFR 3162.8, formerly 30 CFR 221.33, shall first be deleted. The drilling program shall include a description of the pressure control system and circulation mediums, the testing, logging and coring program, pertinent geologic data, and information on expected problems and hazards. The drilling program shall be reviewed for adequacy by BLM. If the program is considered inadequate, BLM shall require modification of the drilling program.

The surface use program shall contain a description of the road and drill pad location and construction methods for containment and disposal of waste material, and other pertinent data as the authorized officer may require. The surface use program shall provide for safe operations, adequate protection of surface resources and uses and other environmental components, and shall, for Federal and Indian surface, include adequate measures for reclamation of disturbed lands no longer needed for either drilling or other subsequent operations. Where the surface is privately owned, the authorized officer may require the submission of the reclamation plan between the lessee or operator and landowner in order to determine if it is adequate to protect nearby Federal and Indian surface from significant impacts generated by the operation. In developing the surface use program, the lessee or operator shall make use of such information as is available from the involved SMA concernng the surface resources and uses, environmental considerations, and local reclamation procedures. The surface use program shall be reviewed for adequacy by BLM and by any other involved SMA. If the surface use program is considered inadequate, BLM shall, in consultation with any other involved SMA, require modifications or amendment of the program or otherwise set forth stipulations or conditions of approval as are necessary for the protection of surface resources/uses and the environment, and for the reclamation of the areas to be disturbed when no longer needed for operational purposes.

a. *Guidelines for Preparing Drilling Program.* The following information shall be included as part of the drilling plan but shall be made specific to each well if the plan covers more than one well:

(1) Estimated tops of important geologic markers.

(2) Estimated depths at which the top and the bottom of anticipated water (particularly fresh water), oil, gas or other mineral-bearing formations are expected to be encountered and the lessee's or operator's plans for protecting such resources.

(3) Lessee's or operator's minimum specifications for pressure control equipment to be used and a schematic diagram thereof showing sizes, pressure ratings (or API series), and the testing procedures and testing frequency.

(4) Any supplementary information more completely describing the drilling equipment and casing program as set forth on Form 3160–3.

(5) Type and characteristics of the proposed circulating medium or mediums to be employed in drilling, the quantities and types of mud and weighting material to be maintained, and the monitoring equipment to be used on the mud system.

(6) The anticipated type and amount of testing, logging, and coring.

(7) The expected bottom hole pressure and any anticipated abnormal pressures or temperatures or potential hazards, such as hydrogen sulfide, expected to be encountered, along with contingency plans for mitigating such identified hazards.

(8) Any other facets of the proposed operation which the lessee or operator wishes to point out for BLM's consideration of the application.

(b) *Guidelines for Preparing Surface Use Program.* In preparing this program, the lessee or operator shall submit maps, plats, and narrative descriptions which adhere closely to the following (maps and plats should be of a scale no smaller than 1:24,000 unless otherwise stated below):

(1) *Existing Roads.* A legible map (USGS topographic, county road, Alaska Borough, or other such map), labeled and showing the access route to the location, shall be used for locating the proposed well site in relation to a town (village) or other locatable point, such as a highway or county road, which handles the majority of the through traffic to the general area. The proposed route to the location, including appropriate distances from the point where the access route exits established roads, shall be shown. All access roads shall be appropriately labeled. Any plans for improvement and/or a statement that existing roads will be maintained in the same or better condition shall be provided. Existing roads and newly constructed roads on surface under the jurisdiction of an SMA shall be maintained in accordance with the standards of the SMA.

Information required by items (2), (3), (4), (5), (6), and (8) of this subsection also may be shown on this map if appropriately labeled or on a separate plat or map.

(2) *Access Roads to Be Constructed and Reconstructed.* All permanent and temporary access roads that are to be constructed, or reconstructed, in connection with the drilling of the proposed well shall be appropriately identified and submitted on a map or plat. Width, maximum grade, major cuts and fills, turnouts, drainage design, location and size of culverts and/or bridges, fence cuts and/or cattleguards, and type of surfacing material, if any, shall be stated for all construction. In addition, where permafrost exists, the methods for protection from thawing must be indicated. Modification of proposed road design may be required during the onsite inspection.

Information also should be furnished to indicate where existing facilities may be altered or modified. Such facilities include gates, cattleguards, culverts, and bridges which, if installed or replaced, shall be designed to adequately carry anticipated loads.

(3) *Location of Existing Wells.* It is recommended that this information be submitted on a map or plat and include all wells (water, injection or disposal, producing, and drilling) within a 1-mile radius of the proposed location.

(4) *Location of Existing and/or Proposed Facilities if Well Is Productive.*

(a) *On well pad*—A map or plat shall be included showing, to the extent known or anticipated, the location of all production facilities and lines to be installed if the well is successfully completed for production.

(b) *Off well pad*—A map or plat shall be included showing to the extent known or anticipated, the existing or new production facilities to be utilized and the lines to be installed if the well is successfully completed for production. If new construction, the dimensions of the facility layout are to be shown.

If the information required under (a) or (b) above is not known and cannot be accurately presented and the well subsequently is completed for production, the operator shall then comply with section IV. of this Order.

(5) *Supp*
Pond
may
secti
writt
trans
be u
shall
Fede

be used from a Federal or Indian project. If the water is obtained from other than Federal or Indian lands, only the location need be identified. Any access roads crossing Federal or Indian lands that are needed to haul the water shall be described in items G.4.b. (1) and (2), as appropriate. If a water supply well is to be drilled on the lease, it shall be so stated under this item, and the authorized officer of BLM may require the filing of a separate APD.

(6) *Construction Materials.* The lessee or operator shall state the character and intended use of all construction materials, such as sand, gravel, stone and soil material. If the materials to be used are Federally-owned, the proposed source shall be shown by either quarter-quarter section on a map or plat, or a written description. The use of materials under BLM jurisdiction is governed by 43 CFR 3610.2–3. The authorized officer shall inform the lessee or operator if the materials may be used free of charge or if an application for sale is required. If the materials to be used are Indian owned or under the jurisdiction of any SMA other than BLM, the specific tribe and or Area Superintendent of BIA, or the appropriate SMA office shall be contacted to determine the appropriate procedure for use of the materials.

(7) *Methods for Handling Waste Disposal.* A written description shall be given of the methods and locations proposed for safe containment and disposal of each type of waste material (e.g., cuttings, garbage, salts, chemicals, sewage, etc.) that results from the drilling of the proposed well. Likewise, the narrative shall include plans for the eventual disposal of drilling fluids and any produced oil or water recovered during testing operations.

(8) *Ancillary Facilities.* The plans, or subsequent amendments to such plans, shall identify all ancillary facilities such as camps and airstrips as to their location, land area required, and the methods and standards to be employed in their construction. Such facilities shall be shown on a map or plat. The approximate center of proposed camps and the center line of airstrips shall be staked on the ground.

(9) *Well Site Layout.* A plat of suitable scale (not less than 1 inch=50 feet)

I.G.4.(b)(9) Well Site Layout, the last seven lines were as follows:

of the reserve and burn pits, access roads onto the pad, turnaround areas, parking areas, living facilities, soil material stockpiles, and the orientation of the rig with respect to the pad and other facilities. Plans, if any, to line the reserve pit shall be detailed.

uts and fills
topography
The plat
the
sed location of the
ern pits....

processing period, when following the APD option. } Insert follows

F. *Threatened and Endangered Species Clearance and Other Critical Environmental Concerns.* The involved SMA shall identify any threatened and endangered species and/or critical habitat problems and other environmental concerns, e.g., wilderness and wilderness study areas, wild and scenic rivers, etc., to minimize the possibility of drill site relocation. Should the SMA, if that agency is not BLM, be unable to carry out this responsibility, BLM shall do so. BLM shall identify any known or potential surface geological hazards. If any of these concerns exist, information in that regard shall be conveyed to the lessee/operator by BLM no later than when the surface use and reclamation stipulations are provided; however, the lessee/operator can ensure earlier identification of potential conflict in these areas of concern by contacting the involved SMA prior to the submittal of an NOS or APD. The authorized officer of BLM should be timely apprised of any contacts with any other involved SMA.

G. *Components of a Complete Application for Permit to Drill.*

1. *Complete Application.* If an NOS is filed, the lessee/operator shall prepare and submit a complete APD within 45 days of the onsite inspection pursuant to the requirements of this subsection. Failure to timely submit an APD within this time frame may result in the lessee/operator having to repeat the entire process. The complete APD shall be submitted in triplicate to BLM, together with any additional copies required by the authorized officer. As provided in 43 CFR 3162.3–1(d), formerly 30 CFR 221.23(d), a complete application consists of:

(a) Form 3160–3, (b) a drilling plan (or reference thereto) containing information required by section G.4., below, (c) evidence of bond coverage as required by Department of the Interior regulations, (d) designation of operator, where necessary, and (e) such other information as may be required by applicable Orders and Notices. The APD shall be signed by the lessee/operator official having the responsibility and authority to supervise and direct all activities related to the permit and who can be contacted in the event of a problem. The authorized officer may require additional information in unusual circumstances. However, where the proposed well is to be completed for injection purposes (disposal or production enhancement), lessees and operators also shall obtain an underground injection permit from the Environmental Protection Agency (EPA) or the State, where the State has achieved primacy. Any information submitted in support of obtaining that permit shall be accepted by the authorized officer to the extent that it satisfies the information submission requirements of this Order.

2. *Designation of Operator.* The lessee may authorize the actual conduct of operations in its behalf by designating another party as operator in a manner and form acceptable to the authorized officer. Lessees shall notify the authorized officer in writing whenever an existing designation of operator is cancelled. A designated operator cannot designate a different party as operator.

3. *Form 3160–3, formerly 9–331C, (Application for Permit to Drill, Deepen, or Plug Back).* This Form shall be completed in full and submitted to the authorized officer together with all necessary information referred to under section G.1. above. The following points a. through f. are specific as to appropriate information requirements of the Form and shall be stated thereon, or as an attachment thereto, for each proposed well:

a. A well location plat shall be attached depicting the proposed location, as determined by a registered surveyor, in feet and direction from the nearest section lines of an established public land survey or, in areas where there are no public land surveys, by such other method as is acceptable to the authorized officer. The plat shall be signed by the surveyor, certifying that the location has, in fact, been staked on the grounds as shown on the plat.

b. The elevation given shall be the above-sea-level datum of the unprepared ground.

c. The type of drilling tools to be utilized shall be stated.

d. The proposed casing program shall include the size, grade, weight, type of thread and coupling, and setting depth of each string, and whether it is new or used.

e. The amount and type of cement, including additives to be used in setting each casing string, shall be described. If stage-cementing techniques are to be employed, the setting depth of the stage collars and amount and type of cement, including additives, to be used in each stage shall be given. The expected linear fill-up of each cemented string or each stage, when utilizing stage-cementing techniques, shall be provided.

f. The anticipated duration of the total operation shall be given in addition to the anticipated starting date.

A copy of the approved Form 3160-3 and the pertinent drilling plan, along with any conditions of approval, shall be available at the drillsite to authorized or delegated representatives of the United States whenever active construction, drilling, or completion operations are under way.

4. *Drilling Plan.* A drilling plan in sufficient detail to permit a complete appraisal of the technical adequacy of, and environmental effects associated with, the proposed project shall be prepared and either submitted with each copy of Form 3160–3, or referenced thereon if it is already on file with BLM or is being submitted for more than one well. The plan shall be developed in conformity with the provisions of the lease, including attached stipulations, and the guidelines provided by this Order or other land use documents. Each drilling plan shall contain a description of the drilling program and surface use program. The BLM shall send a copy of appropriate parts of the plan to any other involved SMA and may send a copy of the plan to other interested Federal, State, and local agencies. All information identified as proprietary by the applicant pursuant to 43 CFR 3162.8, formerly 30 CFR 221.33, shall first be deleted. The drilling program shall include a description of the pressure control system and circulation mediums, the testing, logging and coring program, pertinent geologic data, and information on expected problems and hazards. The drilling program shall be reviewed for adequacy by BLM. If the program is considered inadequate, BLM shall require modification of the drilling program.

The surface use program shall contain a description of the road and drill pad location and construction methods for containment and disposal of waste material, and other pertinent data as the authorized officer may require. The surface use program shall provide for safe operations, adequate protection of surface resources and uses and other environmental components, and shall, for Federal and Indian surface, include adequate measures for reclamation of disturbed lands no longer needed for either drilling or other subsequent operations. Where the surface is privately owned, the authorized officer may require the submission of the reclamation plan between the lessee or operator and landowner in order to determine if it is adequate to protect nearby Federal and Indian surface from significant impacts generated by the operation. In developing the surface use program, the lessee or operator shall make use of such information as is available from the involved SMA concernng the surface resources and uses, environmental considerations, and local reclamation procedures. The surface use program shall be reviewed for adequacy by BLM and by any other involved SMA. If the surface use program is considered inadequate, BLM shall, in consultation with any other involved SMA, require modifications or amendment of the program or otherwise set forth stipulations or conditions of approval as are necessary for the protection of surface resources/uses and the environment, and for the reclamation of the areas to be disturbed when no longer needed for operational purposes.

a. *Guidelines for Preparing Drilling Program.* The following information shall be included as part of the drilling plan but shall be made specific to each well if the plan covers more than one well:

(1) Estimated tops of important geologic markers.

(2) Estimated depths at which the top and the bottom of anticipated water (particularly fresh water), oil, gas or other mineral-bearing formations are expected to be encountered and the lessee's or operator's plans for protecting such resources.

(3) Lessee's or operator's minimum specifications for pressure control equipment to be used and a schematic diagram thereof showing sizes, pressure ratings (or API series), and the testing procedures and testing frequency.

(4) Any supplementary information more completely describing the drilling equipment and casing program as set forth on Form 3160–3.

(5) Type and characteristics of the proposed circulating medium or mediums to be employed in drilling, the quantities and types of mud and weighting material to be maintained, and the monitoring equipment to be used on the mud system.

(6) The anticipated type and amount of testing, logging, and coring.

(7) The expected bottom hole pressure and any anticipated abnormal pressures or temperatures or potential hazards, such as hydrogen sulfide, expected to be encountered, along with contingency plans for mitigating such identified hazards.

(8) Any other facets of the proposed operation which the lessee or operator wishes to point out for BLM's consideration of the application.

(b) *Guidelines for Preparing Surface Use Program.* In preparing this program, the lessee or operator shall submit maps, plats, and narrative descriptions which adhere closely to the following (maps and plats should be of a scale no smaller than 1:24,000 unless otherwise stated below):

(1) *Existing Roads.* A legible map (USGS topographic, county road, Alaska Borough, or other such map), labeled and showing the access route to the location, shall be used for locating the proposed well site in relation to a town (village) or other locatable point, such as a highway or county road, which handles the majority of the through traffic to the general area. The proposed route to the location, including appropriate distances from the point where the access route exits established roads, shall be shown. All access roads shall be appropriately labeled. Any plans for improvement and/or a statement that existing roads will be maintained in the same or better condition shall be provided. Existing roads and newly constructed roads on surface under the jurisdiction of an SMA shall be maintained in accordance with the standards of the SMA.

Information required by items (2), (3), (4), (5), (6), and (8) of this subsection also may be shown on this map if appropriately labeled or on a separate plat or map.

(2) *Access Roads to Be Constructed and Reconstructed.* All permanent and temporary access roads that are to be constructed, or reconstructed, in connection with the drilling of the proposed well shall be appropriately identified and submitted on a map or plat. Width, maximum grade, major cuts and fills, turnouts, drainage design, location and size of culverts and/or bridges, fence cuts and/or cattleguards, and type of surfacing material, if any, shall be stated for all construction. In addition, where permafrost exists, the methods for protection from thawing must be indicated. Modification of proposed road design may be required during the onsite inspection.

Information also should be furnished to indicate where existing facilities may be altered or modified. Such facilities include gates, cattleguards, culverts, and bridges which, if installed or replaced, shall be designed to adequately carry anticipated loads.

(3) *Location of Existing Wells.* It is recommended that this information be submitted on a map or plat and include all wells (water, injection or disposal, producing, and drilling) within a 1-mile radius of the proposed location.

(4) *Location of Existing and/or Proposed Facilities if Well Is Productive.*

(a) *On well pad*—A map or plat shall be included showing, to the extent known or anticipated, the location of all production facilities and lines to be installed if the well is successfully completed for production.

(b) *Off well pad*—A map or plat shall be included showing to the extent known or anticipated, the existing or new production facilities to be utilized and the lines to be installed if the well is successfully completed for production. If new construction, the dimensions of the facility layout are to be shown.

If the information required under (a) or (b) above is not known and cannot be accurately presented and the well subsequently is completed for production, the operator shall then comply with section IV. of this Order.

(5) *Location and Type of Water Supply (Rivers, Creeks, Springs, Lakes, Ponds, and Wells).* This information may be shown by quarter-quarter section on a map or plat, or may be a written description. The source and transportation method for all water to be used in drilling the proposed well shall be noted if the source is located on Federal or Indian lands or if water is to be used from a Federal or Indian project. If the water is obtained from other than Federal or Indian lands, only the location need be identified. Any access roads crossing Federal or Indian lands that are needed to haul the water shall be described in items G.4.b. (1) and (2), as appropriate. If a water supply well is to be drilled on the lease, it shall be so stated under this item, and the authorized officer of BLM may require the filing of a separate APD.

(6) *Construction Materials.* The lessee or operator shall state the character and intended use of all construction materials, such as sand, gravel, stone and soil material. If the materials to be used are Federally-owned, the proposed source shall be shown by either quarter-quarter section on a map or plat, or a written description. The use of materials under BLM jurisdiction is governed by 43 CFR 3610.2–3. The authorized officer shall inform the lessee or operator if the materials may be used free of charge or if an application for sale is required. If the materials to be used are Indian owned or under the jurisdiction of any SMA other than BLM, the specific tribe and or Area Superintendent of BIA, or the appropriate SMA office shall be contacted to determine the appropriate procedure for use of the materials.

(7) *Methods for Handling Waste Disposal.* A written description shall be given of the methods and locations proposed for safe containment and disposal of each type of waste material (e.g., cuttings, garbage, salts, chemicals, sewage, etc.) that results from the drilling of the proposed well. Likewise, the narrative shall include plans for the eventual disposal of drilling fluids and any produced oil or water recovered during testing operations.

(8) *Ancillary Facilities.* The plans, or subsequent amendments to such plans, shall identify all ancillary facilities such as camps and airstrips as to their location, land area required, and the methods and standards to be employed in their construction. Such facilities shall be shown on a map or plat. The approximate center of proposed camps and the center line of airstrips shall be staked on the ground.

(9) *Well Site Layout.* A plat of suitable scale (not less than 1 inch=50 feet) showing the proposed drill pad and its approximate location with respect to topographic features is required. Cross section diagrams of the drill pad showing any cuts and fills and the relation to topography are also required. The plat shall also include the approximate proposed location of the reserve + burn pits....

(10) *Plans for Reclamation of the Surface.* The program for surface reclamation upon completion of the operation, such as configuration of the reshaped topography, drainage system, segregation of spoil materials, surface manipulations, waste disposal, revegetation methods, and soil treatments, plus other practices necessary to reclaim all disturbed areas, including any access roads or portions of well pads when no longer needed, shall be stated. An estimate of the time for commencement and completion of reclamation operations, dependent on weather conditions and other local uses of the area, shall be provided.

(11) *Surface Ownership.* The surface ownership (Federal, Indian, State or private) at the well location, and for all lands crossed by roads which are to be constructed or upgraded, shall be indicated. Where the surface of the well site is privately owned, the operator shall provide the name, address and, if known, telephone number of the surface owner, unless previously provided.

(12) *Other Information.* The lessee or operator is encouraged to submit any additional information that may be helpful in processing the application.

(13) *Lessee's or Operator's Representative and Certification.* The name, address and telephone number of the lessee's or operator's field representative shall be included. The lessee or operator submitting the APD shall certify as follows:

I hereby certify that I, or persons under my direct supervision, have inspected the proposed drill site and access route; that I am familiar with the conditions which currently exist; that the statements made in this plan are, to the best of my knowledge, true and correct; and that the work associated with operations proposed herein will be performed by ———— and its contractors and subcontractors in conformity with this plan and the terms and conditions under which it is approved. This statement is subject to the provisions of 18 U.S.C. 1001 for the filing of a false statement.

Date ————.

Name and Title ————.

5. *Environmental Review Requirements.*

When an onsite inspection is conducted, it shall be made by representatives of the authorized officer and the operator, and other interested parties such as the involved SMA, the appropriate Alaska Borough and/or Native Regional or Village Corporation (when a subsistence stipulation is part of the lease), and the operator's principal dirt contractor and, if known, drilling contractor. It is recommended that, when appropriate, the operator's surveyor and archeologist should also participate in the inspection.

The purpose of this inspection shall be to ensure the staked location, access roads and other areas proposed for surface disturbance are geologically and environmentally acceptable, giving appropriate consideration to all applicable Federal laws and regulations. Lessees and operators are encouraged to designate their future drilling sites so that several locations may be inspected at one time.

a. *Federal Responsibilities.* When an inspection is made, the information obtained shall be utilized by BLM in appraising the environmental effects associated with the proposed action and in preparing pertinent portions of the required environmental documentation. As the approving agency, BLM has the lead responsibility for completing the environmental review process and establishing the terms and conditions under which the proposed action may be approved. The conduct of the environmental review process, under the Department of the Interior's implementing procedures pursuant to the National Environmental Policy Act, will result in the preparation of a Record of Review (ROR) and/or an EA, consistent with pertinent regulations and procedures. This review shall identify the probable and potential environmental impacts associated with the proposal and methods for mitigating these impacts and shall be the basis of the approving official's determination as to whether approval of the proposed activity would or would not constitute a major Federal action significantly affecting the quality of the human environment as defined by section 102(2)(C) of the National Environmental Policy Act of 1969. A "would constitute" determination shall necessitate the

preparation of an EIS. In that case, final action on the APD shall not be taken until the EIS and Record of Decision are completed.

b. *Other Considerations.* Lessees and operators are strongly encouraged to file their NOS and/or complete APD at least 30 days in advance of the time when they wish to commence operations and to consult with the involved SMA as early as possible to identify potential areas of concern (see sections III. E. and F.).

IV. *Subsequent Operations.* Subsequent operations shall be conducted in accordance with 43 CFR Part 3160, formerly 30 CFR 221. However, where the proposed subsequent operation will result in the well being converted for injection purposes (disposal or production enhancement), lessees and operators also shall obtain an underground injection permit from EPA or the State, where the State has achieved primacy. Any information submitted in support of obtaining that permit shall be accepted by the authorized officer of BLM to the extent that it satifies the information submittal requirements of this Order.

A. *Well and Production Operations.* Before conducting further well operations that involve change in the original plan, a detailed written statement of the work shall be filed on Form 3160–5 or 3160–3, as appropriate, with the authorized officer and approval obtained before the work is started. These operations include redrilling, deepening, performing casing repairs, plugging-back, altering casing, performing nonroutine fracturing jobs, recompleting in a different interval, performing water shut-off, and converting to injection or disposal. Within 30 days of the completion of such operations, a subsequent report shall be filed on Form 3160–5 and, if the well is recompleted, a recompletion report on Form 3160–4, pursuant to 43 CFR 3162.3–2 and the information collection approval note, formerly 30 CFR 221.27 and 221.2–1.

Unless additional surface disturbance is involved and so long as the operations conform to the standard of prudent operating practice, no prior approval is required for routine fracturing or acidizing jobs, or recompletion in the same interval, but a subsequent report of these operations shall be filed on Form 3160–5, formerly 9–331, within 30 days of completion, pursuant to 43 CFR 3162.3-2 and the information collection approval note; formerly 30 CFR 221.27 and 221.2–1.

Neither prior approval nor a subsequent report is required for well clean-out work, routine well maintenance (such as pump, rods, and tubing work), or for repair, replacement, or modification of surface production equipment, provided no additional surface disturbance is involved. However, the modification of any production, treating, and measurement facilities shall require the submission of a revised schematic diagram within 30 days of the completion of such operations, pursuant to 43 CFR 3162.7–2, formerly 30 CFR 221.34.

B. *Surface Disturbing Operations.* Pursuant to 43 CFR 3162.3–2 and 3162.3–3, formerly 30 CFR 221.27 and 221.28, lessees and operators shall submit, for the approval of the authorized officer, a proposed plan of operations on Form 3160–5 prior to undertaking any subsequent new construction, reconstruction, or alteration of existing facilities including, but not limited to, roads, emergency pits, firewalls, flowlines, or other production facilities on any lease when additional surface disturbance will result. If, at the time the original APD was filed, the lessee or operator elected to defer submitting information for item III.G.4.b.(4), "Location of Existing and/or Proposed Facilities if Well is Productive," the lessee or operator shall supply this information for approval prior to construction and installation of the facilities. The authorized officer, in consultation with any other involved SMA, may require a field inspection before approving the proposal.

C. *Emergency Repairs.* Emergency repairs may be conducted without prior approval provided that the authorized officer is promptly notified. Sufficient information shall be submitted to permit a proper evaluation of any resultant surface disturbing activities as well as any planned accommodations necessary to mitigate potential adverse environmental effects.

D. *Environmental Review.* The environmental review procedures discussed in section III.G.5. of this Order shall also apply to subsequent operations which involve additional surface disturbance.

V. *Well Abandonment.* No well abandonment operations may be commenced without the prior approval of the authorized officer. In the case of newly drilled dry holes or failures and in emergency situations, oral approval may be obtained from the authorized officer subject to prompt written confirmation. For old wells not having an approved abandonment plan, a sketch showing the disturbed area and roads to be abandoned, along with the proposed reclamation measures, shall be submitted with Form 3160–5. On Federal and Indian surface, the appropriate SMA may request additional reclamation measures at abandonment, which normally shall be made a part of BLM's approval of abandonment. Within 30 days following completion of the well abandonment, the lessee or operator shall file with the authorized officer of BLM a Subsequent Report of Abandonment on Form 3160–5, in accordance with 43 CFR Part 3160, formerly 30 CFR Part 221. Upon completion of reclamation operations, the lessee or operator shall notify the authorized officer when the location is ready for inspection, via an additional Form 3160–5. Final abandonment shall not be approved until the surface reclamation work required by the approved drilling permit or approved abandonment notice has been completed to the satisfaction of the involved SMA.

VI. *Water Well Conversion.* The complete abandonment of a well which has encountered usable fresh water shall not be approved if the SMA or surface owner wants to acquire the well. If, at abandonment, the SMA or surface owner elects to assume further responsibility for the well, the SMA or surface owner, as appropriate, shall reimburse the lessee or operator for the cost of any recoverable casing or wellhead equipment which is to be left in or on the hole solely because it is to be completed as a water well. The lessee or operator shall abandon the well to the base of the deepest fresh water zone of interest, as required by the authorized officer, and shall complete the surface cleanup and reclamation, as required by the approved drilling permit or approved abandonment notice, immediately upon completion of the conversion operations.

VII. *Privately Owned Surface.*—A. *Federal oil and gas leases.* Where the well site and access road surface are privately owned or are held in trust for Indian benefit, the lessee or operator is responsible for reaching an agreement with BIA or the private surface owner as to the requirements for the protection of surface resources and reclamation of disturbed areas and/or damages in lieu thereof. However, if the authorized officer or any other involved SMA determines that the surface of Federal or Indian-owned lands in proximity to the proposed well site or access road on private surface will be significantly affected, the lessee or operator may be required to furnish a copy of any existing agreement between the lessee or operator and the surface owner to the authorized officer. If the agreement on

private surface is considered inadequate to protect the surface of adjacent Federal or Indian-owned lands, the authorized officer or other involved SMA may prescribe additional measures to protect the adjacent Federal or Indian lands. In the event there is no agreement between the surface owner and the operator, the operator may comply with the provisions of the law or the regulations governing the Federal or Indian right of reentry to the surface (See Subpart 3814 of this title) and the authorized officer may then proceed to issue the permit.

B. *Indian oil and gas leases.* Where the well site and access road surface are privately owned or are held in trust for an Indian or Indian tribe other than the owner of the oil and gas rights, the lessee or operator is responsible for reaching an agreement with the surface owner (or the BIA if the surface is held in trust for numerous or unlocatable Indian owners) as to the requirement for the protection of surface resources and reclamation of disturbed areas and/or damages in lieu thereof. However, if the authorized officer or any other involved SMA determines that the surface of Federal or Indian-owned lands in proximity to the proposed well site or access road on private surface will be significantly affected, the lessee or operator may be required to furnish the authorized officer a copy of any existing agreement between the lessee or operator and the surface owner. If the agreement on private surface is considered inadequate to protect the surface of adjacent Federal or Indian-owned lands, the authorized officer or other involved SMA may prescribe additional measures to protect the adjacent Federal or Indian-owned lands. In the event there is no agreement between the surface owner and the operator, the authorized officer may permit the operator to conduct operations if he/she determines that: (1) a good faith effort has been made by the operator to reach agreement with the surface owner; (2) adequate security is posted, in the form of a bond, escrow account or by other means, to compensate the surface owner for any damages; and (3) there is no legal obstacle to conducting operations in the absence of surface owner consent.

VIII. *Reports and Activities Required After Well Completion.* Within 30 days after the well completion, the lessee or operator shall furnish 2 copies of Form 3160–4, formerly 9–330 (Well Completion or Recompletion Report and Log) to the authorized officer. However, no later than the fifth business day after any well begins production anywhere on a lease site or allocated to a lease site, or resumes production in the case of a well that has been off production for more than 90 days, the lessee or operator shall notify the authorized officer of the date on which production has begun or resumed.

The notification may be provided orally if promptly confirmed in writing.

Dated: August 9, 1983.

Jeffrey F. Zabler,

Acting Assistant Director for Fluid Leasable Minerals.

Approved:

Dated: August 17, 1983.

Arnold E. Petty,

Acting Associate Director, Bureau of Land Management.

BILLING CODE 4310-84-M

SAMPLE FORMAT

NOTICE OF STAKING (Not to be used in place of Application for Permit to Drill Form 3160-3)	6. Lease Number
1. Oil Well ☐ Gas Well ☐ Other (Specify)	7. If Indian, Allottee or Tribe Name
2. Name of Operator:	8. Unit Agreement Name
3. Name of Specific Contact Person:	9. Farm or Lease Name
4. Address & Phone No. of Operator or Agent	10. Well No.
5. Surface Location of Well Attach: a) Sketch showing road entry onto pad, pad dimensions, and reserve pit. b) Topographical or other acceptable map showing location, access road, and lease boundaries.	11. Field or Wildcat Name 12. Sec., T., R., M., or Blk and Survey or Area
15. Formation Objective(s) / 16. Estimated Well Depth	13. County, Parish or Borough / 14. State

17. Additional Information (as appropriate; shall include surface owner's name, address and, if known, telephone number)

18. Signed_____ Title_____ Date_____

Note: Upon receipt of this Notice, the Bureau of Land Management (BLM) will schedule the date of the onsite predrill inspection and notify you accordingly. The location must be staked and access road must be flagged prior to the onsite.

Operators must consider the following prior to the onsite:
a) H_2S Potential
b) Cultural Resources (Archeology)
c) Federal Right of Way or Special Use Permit

IMPORTANT: SEE REVERSE SIDE FOR INSTRUCTIONS

BILLING CODE 4310-84-C

Instructions for Preparation of Attachment A

General: This provides notice to the Bureau of Land Management (BLM) that staking has been (or will be) completed for well locations on Federal or Indian leases and serves as a request to schedule an onsite inspection. The original and one copy of this notice, together with a map and sketch, should be submitted to the appropriate BLM office.

Any item not completed may be justification for not promptly scheduling the onsite inspection.

Specific Considerations: Items included herein should be reviewed and evaluated thoroughly prior to the onsite. These items affect placement of location, road, and facilities. Failure to be prepared with complete, accurate information at the onsite may necessitate later re-evaluation of the site and an additional onsite inspection.

a. H_2S Potential: Prevailing winds, escape routes, and placement of living quarters must be considered.

b. Cultural Resources: Archeological surveys, if required, should be done prior to, during or immediately following the onsite. Changes in location due to subsequent archeological findings may require an additional onsite. Contact involved Surface Management Agency (SMA) for detailed site specific requirements.

c. Federal Right-of-Way or Special Use Permit: Access roads outside the leasehold boundary which cross Federal lands will require a right-of-way grant or special use permit and should be discussed with the BLM or other involved SMA at the time of filing the Notice of Staking.

Supplemental Checklist: The following items, if applicable, should be submitted with or prior to the Application For Permit to Drill (APD) to ensure timely approval of the application. Contact the BLM regarding specific requirements relating to each item.

a. Bonding.

b. Designation of Operator.

c. Report of Cultural Resources/ Archeology.

d. H_2S Contingency Plan.

e. Status of Plan of Development and Designation of Agent for wells in Federal units.

f. Federal Right-of-Way (BLM) or Special Use Permit (Forest Service).

Timetable: The onsite inspection will be scheduled and conducted by the BLM within 15 days after receipt of this notice. Surface protection and rehabilitation requirements will be made known to the operator by the BLM during the onsite or no later than 5 working days from the date of inspection, barring unusual circumstances. These requirements are to be incorporated into the complete APD. However, this does not exclude the possibility of additional conditions of approval being imposed.

Attachment B

Date:— _____

Bureau of Land Management

Checklist for Applicant Notification

Receipt and Acceptability of Application for Permit To Drill (APD)

Lease No.————
Well No.————
Lessee————
Operator————
Date APD Received————

1.—APD complete as submitted.

2.—APD is deficient in the following area(s) *and* (see items 3, 4, or 5 below):

—Designation of Operator
—Designation of Agent under————unit agreement
—Bonding
—Cultural Resources Report (depends on Federal Surface Management Agency's Requirements
—Form 3160–3, formerly 9–331C
—Drilling Plan
—Other

(Refer to attachment(s) for any specifics)

3.—APD is retained; to be processed upon receipt of further information as noted above.

4.—APD is being processed; final action pending receipt of further information as noted above.

5.—APD is returned for the following reasons:————

_____

_____

Note:— A returned APD herewith may be resubmitted when convenient at which time it will be reviewed again for technical and administrative completeness.

A retained but deficient APD must be brought to a technically and administratively acceptable level of completion within 45 days of the date of this notice or the application will be returned unapproved.

[FR Doc. 83–28642 Filed 10–20–83; 8:45 am]
BILLING CODE 4310–84–M

Dated: September 21, 1983.

Harold W. Furman II,

Acting Assistant Secretary of the Interior.

Library

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

43 CFR Part 3160

[Circular No. 2538]

DEPT OF INTERIOR
BUR. OF LAND MANAGEMENT
1983 NOV 30 AM 10:25
RECEIVED
MONTANA STATE OFFICE
BILLINGS, MONTANA

Onshore Oil and Gas Order No. 1; Approval of Operations on Onshore Federal and Indian Oil and Gas Leases

Under the authority of the Act of February 25, 1920, as amended and supplemented (30 U.S.C. 189, 226), and Executive Order 12291 (46 FR 13193), Part 3160, Group 3100, Subchapter C, Chapter II of Title 43 of the Code of Federal Regulations is amended as set forth below.

PART 3160—ONSHORE OIL AND GAS OPERATIONS

Section 3164.1(b) is amended by adding the following table:

§ 3164.1 Onshore Oil and Gas Orders.

* * * * *

(b) * * *

Order No.	Subject	Effective date	Federal Register reference	Supersedes
1	Approval of Operations	Nov. 21, 1983	48 FR—	NTL-6.

Appendix—Text of Oil and Gas Order

Note.—This appendix will not appear in the Code of Federal Regulations.

Contents

Onshore Order

Introduction

I. Accountability
II. Special Situations
III. Drilling Operations
  A. Surveying and Staking
  B. Material to be Filed
    1. Notice of Staking
    2. Application for Permit to Drill
  C. Conferences and Inspections
  D. Processing Time Frames
  E. Cultural Resources Clearance
  F. Threatened and Endangered Species Clearance and Other Critical Environmental Concerns
  G. Components of a Complete Application for Permit to Drill
IV. Subsequent Operations
  A. Production Facilities
  B. Other Operations
  C. Emergency Repairs
  D. Environmental Review
V. Well-Abandonment
VI. Water Well Conversion
VII. Privately Owned Surface
VIII. Reports and Activities Required After Well Completion

Onshore Oil and Gas Order

Federal and Indian Oil and Gas Leases

Order No. 1

Effective: November 21, 1983

Approval of Operations

Introduction

This Order is established pursuant to the authority prescribed in 43 CFR Part 3160, formerly 30 CFR 221. Approval of all proposed exploratory, development, and service wells, and all required approvals of subsequent well operations and other lease operations, shall be obtained in accordance with 43 CFR 3162.3–1, 3162.3–2, 3162.3–3, 3162.3–4 and 3162.5–1, formerly 30 CFR 221.23, 221.27, 221.28, 221.29, or 221.30, as appropriate.

All wells approved for drilling under the provisions of this Order shall have been included in a drilling plan, as required under 43 CFR 3162.3–1(d), formerly 30 CFR 221.23(d).

A drilling plan may be submitted for a single well, or for several wells that are proposed to be drilled to the same zone within a field or area of geological and environmental similarity. Plans for additional development of the leasehold should be considered in the submittal.

However, approval of Form 3160–3, formerly 9–331C (Application for Permit to Drill, Deepen, or Plug Back) is required for each well, and in order to be complete an Application for Permit to Drill (APD) shall include all information required under 43 CFR 3162.3–1 (d) and (e). A technically and administratively complete APD includes, in addition to Form 3160–3, a drilling plan, evidence of bond coverage, a designation of operator, when appropriate, and such other information as may be required by applicable Order or Notice to evaluate the proposal. Refer to section III.G. for more detailed guidance on complete APD's.

Certain subsequent well operations and other lease operations involving additional surface disturbance shall be included in a plan submitted on Form 3160–5, formerly 9–331 (Sundry Notices and Reports On Wells), and approved under the provisions of this Order pursuant to 43 CFR 3162.3–2 or 3162.3–3, formerly 30 CFR 221.27 or 221.28, respectively.

A report on all subsequent well operations shall be filed on Form 3160–5, as prescribed in 43 CFR 3162.3–2. A notice of intention to abandon a well and a subsequent report of abandonment shall also be filed on

Published in 48 F.R. 48916, October 21, 1983 – Effective November 21, 1983

Form 3160–5, as required by 43 CFR 3162.3–4.

All applications for approval under the provisions of this Order shall be submitted to the appropriate authorized officer of the Bureau of Land Management (BLM). "Authorized Officer" means any person authorized to perform the duties prescribed. To be advised of the proper BLM official and office with which to file an application, the lessee/operator may contact the appropriate District Manager of BLM having jurisdiction over lease operations in a particular area.

The lessee/operator shall comply with the following requirements:

I. *Accountability.* Lessees and operators have the responsibility to see that their exploration, development, production, and construction operations are conducted in a manner which (1) conforms with applicable Federal laws and regulations and with State and local laws and regulations to the extent that such State and local laws are applicable to operations on Federal or Indian leases; (2) conforms with the lease terms, lease stipulations, and conditions of approval; (3) results in diligent development and efficient resource recovery; (4) protects the lease from drainage; (5) affords adequate safeguards for the environment; (6) results in the proper reclamation of disturbed lands; (7) conforms with current available technology and practice; (8) assures that underground sources of fresh water will not be endangered by any fluid injection operation; and (9) otherwise assures the protection of the public health and safety. Lessees and operators shall be held fully accountable for their contractors' and subcontractors' compliance with the requirements of the approved permit and/or plan. Drilling/construction and associated operations shall not be conducted without prior approval of the authorized officer of BLM. BLM approval of the APD does not relieve the lessee and operator from obtaining and other authorizations required for operations on Federal and Indian lands.

II. *Special Situations.* Lessees and operators, as well as their contractors and subcontractors, shall not commence any operation or construction activity on a lease, other than cultural resource inventories and surveying and staking well locations on Federal and Indian lands, without the prior approval of the authorized officer of BLM, except for certain subsequent operations (see Section IV. of this Order). The terms and conditions of an approved permit and drilling plan, or other plan, shall not be altered unless BLM first has approved an amended or supplemental permit and/or plan covering any such modifications.

For proposed operations on a committed State of fee tract in a Federally supervised unit or communitized tract, the operator shall furnish a copy of the approved State permit to the authorized officer of BLM which will be accepted for record purposes. In addition, in cases where an access road to a non-Federal or non-Indian drillsite will cross leased Federal or Indian lands, the operator shall submit a surface use plan only for those portions of the access road on Federal or Indian lands where new construction or reconstruction will occur. Such plans shall be submitted to the authorized officer of BLM or appropriate Federal Surface Management Agency (SMA) and approval obtained prior to commencement of construction operations on the Federal or Indian surface. For privately owned surface, refer to section VII.

III. *Drilling Operations.*

A. *Surveying and Staking.* Surveying and staking may be done without advance approval from the authorized officer of BLM or other appropriate SMA and prior to the conduct of any required cultural resource inventory, except for lands administered by the Department of Defense or other lands used for military purposes, or where significant surface disturbance is likely to occur.

Lessees and operators are strongly encouraged to notify the appropriate SMA prior to entry upon the lands for the purposes of surveying and staking. Early notification will allow the SMA to apprise the lessees and operators of any existing conditions, knowledge of which could result in saving of time and money by both industry and Government. These include but are not limited to:

—Whether a cultural resource inventory is required;
—Presence of threatened or endangered species and/or critical habitats;
—Vehicle access restrictions; and/or
—Permitting requirements applicable to affected lands outside the leasehold boundary.

Where the surface is privately owned or held in trust of Indian benefit, the lessee/operator is responsible for making access arrangements with the private surface owner or the Bureau of Indian Affairs (BIA) and Indian tribe or Indian allottee(s) prior to entry upon the lands for the purpose of surveying and staking.

Staking shall include the well location, two 200-foot directional reference stakes, the exterior dimensions of the drill pad, reserve pit and other areas of surface disturbance, cuts and fills, and centerline flagging of new roads with road stakes being visible from one to the next. Cut and fill staking applies only to the wellsite, reserve pit, and, if off-location, and ancillary facilities.

B. *Material to be Filed.*

1. *Notice of Staking.* Prior to filing a complete APD, the lessee or operator may, at its option, file a Notice of Staking (Attachment A) with the authorized officer of BLM and appropriate office of any other involved SMA. In Alaska, a copy of the Notice shall also be sent to the appropriate Borough when a subsistence stipulation is part of the lease.

The information contained in the Notice of Staking (NOS) will aid in identifying the need for associated rights-of-way and special use permits. If all required information is not included, the NOS shall be returned to the operator for modification.

2. *Application for Permit to Drill (APD).* Regardless of whether an NOS is filed, the lessee or operator shall file an APD. This application shall be administratively and technically complete prior to approval. The authorized officer of BLM shall advise the lessee or operator, within 7 working days of receipt of the application, as to whether or not the application is complete. If the application is complete, oral notification will suffice. If the application is not complete, notification to that effect shall be made in writing even though the lessee or operator may have already received oral notification. For purposes of written notification, Attachment B, Checklist For Applicant Notification, shall be mailed to the applicant within the 7-day period. The notification shall advise the lessee or operator of any defects that need correcting and of any additional information required. If the deficiencies are not corrected and/or the additional required information is not submitted within 45 days of the date of any oral or written notice (if no prior oral notice), the application shall be returned to the proponent.

Upon initiation of the APD process, the authorized officer of BLM shall consult with any other involved SMA and with other appropriate interested parties, and shall take one of the following actions within 30 days: (1) Approve the application as submitted or with appropriate modifications or stipulations; (2) return the application and advise the lessee or operator of the reasons for disapproval; or (3) advise the lessee or operator, either in writing or orally with subsequent written

confirmation, of the reasons why final action will be delayed and the date such final action is expected.

When the NOS option is followed, BLM shall strive to process the subsequent related APD within 10 days of the APD's receipt. However, in either situation, the process of reviewing the APD and advising the lessee or operator as to whether it is technically and administratively complete shall be considered a part of the overall APD processing time, i.e., 30 days in case of the APD option and 10 days if the NOS process is utilized. Operators are cautioned that with respect to any particular well, the option selected initially, of either filing both an NOS and a subsequent APD or only an APD, is to be followed and there shall be no shifting between the two options. If operators fail to maintain a consistent approach in this regard, the processing time already expended shall not be counted as part of the above 30-day period.

The processing of applications shall be given a high priority, and individual applications shall be processed according to the date the application is received by the appropriate BLM office. If it is not possible for BLM actions to be taken prior to lease expiration, the lessee or operator shall be advised, at least orally, prior to the lease expiration date, with all such notifications confirmed in writing. Said advice shall detail the reasons for delay so that the lessee or operator may take such appeal or other recourse to preserve the lease as is allowed by law and/or regulation. The appropriate BLM office telephone number and address shall be furnished to the lessee or operator with the earliest notification or advice.

C. *Conferences and Inspections.* An onsite predrill inspection shall be scheduled and conducted by the appropriate BLM office within 15 days of receiving the applicant's initially-filed document, i.e., either an NOS or a complete APD. In special circumstances, the authorized officer of BLM may require the filing of a complete APD prior to the scheduling of an onsite predrill inspection. Representatives of the appropriate BLM office, the operator and other interested parties, such as any other involved SMA, the appropriate Alaska Borough (when a subsistence stipulation is part of the lease), and the operator's principal dirt and drilling contractors shall attend the predrill inspection. When appropriate, the operator's surveyor and archeologist should also participate in the inspection. If any other involved SMA is not able to participate at the desired time, the inspection may be rescheduled provided it can be conducted within the 15-day period. When private surface is involved, the lessee or operator shall furnish the name, address and telephone number of the private surface owner on the NOS form or, in the surface use program, such information shall be attached to the APD. The BLM shall invite the surface owner to participate in the onsite inspection. This invitation will be extended as early as possible. However, a surface owner's inability to attend shall not delay the scheduled inspection unless BLM can conveniently reschedule the inspection within the 15-day time period. Joint inspections, i.e., those involving any other SMA, normally shall not be held for proposed in-fill well locations in developed fields if an appropriate environmental assessment (EA) already has been completed by BLM for the field or that area of the field. However, if staffing permits, a representative of BLM shall inspect those proposed locations where a joint predrill inspection is not held. At the time of onsite inspection, staking of the location shall have occurred, as specified in part A of this section. The surface use and reclamation stipulations shall be developed during the onsite inspection and provided to the operator either at the location or within 5 working days from the date of the onsite inspection, barring unusual circumstances. These requirements shall be incorporated into the complete application, when filed, if the proponent is following the NOS option. Otherwise, these requirements shall be incorporated as conditions of the APD approval if an NOS is not filed. However, this does not preclude the possibility of additional conditions being imposed as a result of the review of the complete application.

D. *Processing Time Frames.* The following table summarizes the major time frames involved in processing most APD's:

APD OPTION

Action items	Days
Onsite inspection	Within 15 days after receipt of the APD.
Requirements to be imposed when APD is approved.	Developed onsite or within 5 working days thereafter.
Complete processing of APD.	Within 30 days of the APD's receipt, provided that it is technically and administratively complete at the end of the 30-day period (includes the above 15-day and 5-day periods).

NOS OPTION

Action items	Days
Onsite inspection	Within 15 days after receipt of the NOS.
Requirements for inclusion in APD.	Furnished onsite or within 5 working days thereafter.
Complete processing of APD.	Within 10 days of the APD's receipt, provided that it is technically and administratively complete at the end of the 10-day period.

The above timeframes together comprise the total period during which BLM anticipates it will be able to process approximately 90 percent of all APD's. However, the 30 days may not run consecutively even when APD's are filed immediately after onsite inspections. For example, any time used by lessees or operators to correct deficiencies, or to prepare and submit information initially omitted from the application and which causes delays in processing beyond BLM's control, shall not be counted as part of the 30-day period. However, BLM shall continue to process applications up to the point where any missing piece of information or an uncorrected deficiency renders further processing impractical or impossible. Processing delays which extend the 30-day processing time are expected to occur in less than 5 percent of the cases. In addition, delays in conducting onsite inspections within 15 days of receiving an NOS (or an APD if an NOS is not filed), or delays in providing all stipulations to the operator within 5 working days of an onsite inspection may occur in less than 5 percent of the cases during periods of severe weather conditions and in areas where certain environmental concerns or jurisdictional conflicts exist.

Such areas include, but are not limited to:

1. Certain tribally or individually owned Indian trust or restricted lands.

2. Lands withdrawn for Federal reservoirs and Federal lands surrounding such reservoirs.

3. Lands in formally designated wilderness areas, lands formally proposed for such designation, lands within BLM Wilderness Study Areas or lands within Forest Service Further Planning Areas.

4. National Recreation Areas.

5. Wildife Refuges.

6. Certain Federal lands in Alaska.

7. Lands under jurisdiction of the Department of Defense.

8. Lands where a major problem exists with respect to cultural resources.

9. Lands known to contain threatened or endangered species and/or critical habitats.

The 30-day time frame for completion of the APD process also may be exceeded in most cases where it is necessary to prepare an EA, and in all cases where it is necessary to prepare an environmental impact statement (EIS).

Lessees and operators are also cautioned that if the NOS/APD process begins less than 30 days prior to the desired date of commencement of drilling operations, the process may not be completed within the time desired.

E. *Cultural Resources Clearance.* Because consultation with the involved SMA and the State Historic Preservation Officer on matters that relate to the protection of historic and cultural resources is provided in BLM (36 CFR 800.4(a)(1)), lessees and operators should contact the involved SMA at least 15 days prior to the submission of an NOS or APD to determine whether any actions are necessary to locate and identify historic and cultural resources. If such actions are necessary, lessees and operators are encouraged to complete the work and report prior to the submission of any other material to the authorized officer of BLM but, in any event, no later than the time the complete APD is submitted. Survey work and a related report shall be required only if the involved SMA has reason to believe that properties listed, or eligible for listing, in the National Register of Historic Places (NRHP) are present in the area of potential effect. Historic and cultural resources work on privately owned surface shall be undertaken only with the consent of the private surface owner. If the private surface owner refuses entry for that purpose, the lessee or operator shall use its best efforts to conduct its approved operations in a manner that avoids adverse effects on any properties which are listed, or may be eligible for listing, in the NRHP.

F. *Threatened and Endangered Species Clearance and Other Critical Environmental Concerns.* The involved SMA shall identify any threatened and endangered species and/or critical habitat problems and other environmental concerns, e.g., wilderness and wilderness study areas, wild and scenic rivers, etc., to minimize the possibility of drill site relocation. Should the SMA, if that agency is not BLM, be unable to carry out this responsibility, BLM shall do so. BLM shall identify any known or potential surface geological hazards. If any of these concerns exist, information in that regard shall be conveyed to the lessee/operator by BLM no later than when the surface use and reclamation stipulations are provided; however, the lessee/operator can ensure earlier identification of potential conflict in these areas of concern by contacting the involved SMA prior to the submittal of an NOS or APD. The authorized officer of BLM should be timely apprised of any contacts with any other involved SMA.

G. *Components of a Complete Application for Permit to Drill.*

1. *Complete Application.* If an NOS is filed, the lessee/operator shall prepare and submit a complete APD within 45 days of the onsite inspection pursuant to the requirements of this subsection. Failure to timely submit an APD within this time frame may result in the lessee/operator having to repeat the entire process. The complete APD shall be submitted in triplicate to BLM, together with any additional copies required by the authorized officer. As provided in 43 CFR 3162.3–1(d), formerly 30 CFR 221.23(d), a complete application consists of:

(a) Form 3160–3, (b) a drilling plan (or reference thereto) containing information required by section G.4., below, (c) evidence of bond coverage as required by Department of the Interior regulations, (d) designation of operator, where necessary, and (e) such other information as may be required by applicable Orders and Notices, including a cultural resource report (if required and not already filed). The APD shall be signed by the lessee/operator official having the responsibility and authority to supervise and direct all activities related to the permit and who can be contacted in the event of a problem. The authorized officer may require additional information in unusual circumstances. However, where the proposed well is to be completed for injection purposes (disposal or production enhancement), lessees and operators also shall obtain an underground injection permit from the Environmental Protection Agency (EPA) or the State, where the State has achieved primacy. Any information submitted in support of obtaining that permit shall be accepted by the authorized officer to the extent that it satisfies the information submission requirements of this Order.

2. *Designation of Operator.* The lessee may authorize the actual conduct of operations in its behalf by designating another party as operator in a manner and form acceptable to the authorized officer. Lessees shall notify the authorized officer in writing whenever an existing designation of operator is cancelled. A designated operator cannot designate a different party as operator.

3. *Form 3160–3, formerly 9–331C, (Application for Permit to Drill, Deepen, or Plug Back).* This Form shall be completed in full and submitted to the authorized officer together with all necessary information referred to under section G.1. above. The following points a. through f. are specific as to appropriate information requirements of the Form and shall be stated thereon, or as an attachment thereto, for each proposed well:

a. A well location plat shall be attached depicting the proposed location, as determined by a registered surveyor, in feet and direction from the nearest section lines of an established public land survey or, in areas where there are no public land surveys, by such other method as is acceptable to the authorized officer. The plat shall be signed by the surveyor, certifying that the location has, in fact, been staked on the grounds as shown on the plat.

b. The elevation given shall be the above-sea-level datum of the unprepared ground.

c. The type of drilling tools and associated equipment to be utilized shall be stated.

d. The proposed casing program shall include the size, grade, weight, type of thread and coupling, and setting depth of each string, and whether it is new or used.

e. The amount and type of cement, including additives to be used in setting each casing string, shall be described. If stage-cementing techniques are to be employed, the setting depth of the stage collars and amount and type of cement, including additives, to be used in each stage shall be given. The expected linear fill-up of each cemented string or each stage, when utilizing stage-cementing techniques, shall be provided.

f. The anticipated duration of the total operation shall be given in addition to the anticipated starting date. A copy of the approved Form 3160–3 and the pertinent drilling plan, along with any conditions of approval, shall be available at the drillsite to authorized or delegated representatives of the United States whenever active construction, drilling, or completion operations are under way.

4. *Drilling Plan.* A drilling plan in sufficient detail to permit a complete appraisal of the technical adequacy of, and environmental effects associated with, the proposed project shall be prepared and either submitted with each copy of Form 3160–3, or referenced thereon if it is already on file with BLM or is being submitted for more than one well. The plan shall be developed in conformity with the provisions of the lease, including attached stipulations, and the guidelines provided by this Order or other land use documents.

Each drilling plan shall contain a description of the drilling program and surface use program. The BLM shall send a copy of appropriate parts of the plan to any other involved SMA and may send a copy of the plan to other interested Federal, State, and local agencies. All information identified as proprietary by the applicant pursuant to 43 CFR 3162.8, formerly 30 CFR 221.33, shall first be deleted. The drilling program shall include a description of the pressure control system and circulation mediums, the testing, logging and coring program, pertinent geologic data, and information on expected problems and hazards. The drilling program shall be reviewed for adequacy by BLM. The criteria/standards set forth in the operational manual section (currently designated CDM 643.1.3E, Technical Considerations), or in effect at the time of submission of the APD, generally will be utilized in evaluating the technical adequacy of a proposed drilling plan. If the program is considered adequate, BLM shall require modification of the drilling program.

The surface use program shall contain a description of the road and drill pad location and construction methods for containment and disposal of waste material, and other pertinent data as the authorized officer may require. The surface use program shall provide for safe operations, adequate protection of surface resources and uses and other environmental components, and shall, for Federal and Indian surface, include adequate measures for reclamation of disturbed lands no longer needed for either drilling or other subsequent operations. Where the surface is privately owned, the authorized officer may require the submission of the reclamation plan between the lessee or operator and landowner in order to determine if it is adequate to protect nearby Federal and Indian surface from significant impacts generated by the operation. In developing the surface use program, the lessee or operator shall make use of such information as is available from the involved SMA concernng the surface resources and uses, environmental considerations, and local reclamation procedures. The surface use program shall be reviewed for adequacy by BLM and by any other involved SMA. The criteria/standards set forth in the Surface Operating Standards for Oil and Gas Exploration and Development Handbook, Second Edition, August 1978, or as subsequently revised, generally shall be utilized in evaluating the adequacy of a proposed surface use plan. If the surface use program is considered inadequate, BLM shall, in consultation with any other involved SMA, require modifications or amendment of the program or otherwise set forth stipulations or conditions of approval as are necessary for the protection of surface resources/uses and the environment, and for the reclamation of the areas to be disturbed when no longer needed for operational purposes.

a. *Guidelines for Preparing Drilling Program.* The following information shall be included as part of the drilling plan but shall be made specific to each well if the plan covers more than one well:

(1) Estimated tops of important geologic markers.

(2) Estimated depths at which the top and the bottom of anticipated water (particularly fresh water), oil, gas or other mineral-bearing formations are expected to be encountered and the lessee's or operator's plans for protecting such resources.

(3) Lessee's or operator's minimum specifications for pressure control equipment to be used and a schematic diagram thereof showing sizes, pressure ratings (or API series), and the testing procedures and testing frequency.

(4) Any supplementary information more completely describing the drilling equipment and casing program as set forth on Form 3160–3.

(5) Type and characteristics of the proposed circulating medium or mediums to be employed in drilling, the quantities and types of mud and weighting material to be maintained, and the monitoring equipment to be used on the mud system.

(6) The anticipated type and amount of testing, logging, and coring.

(7) The expected bottom hole pressure and any anticipated abnormal pressures or temperatures or potential hazards, such as hydrogen sulfide, expected to be encountered, along with contingency plans for mitigating such identified hazards.

(8) Any other facets of the proposed operation which the lessee or operator wishes to point out for BLM's consideration of the application.

(b) *Guidelines for Preparing Surface Use Program.* In preparing this program, the lessee or operator shall submit maps, plats, and narrative descriptions which adhere closely to the following (maps and plats should be of a scale no smaller than 1:24,000 unless otherwise stated below):

(1) *Existing Roads.* A legible map (USGS topographic, county road, Alaska Borough, or other such map), labeled and showing the access route to the location, shall be used for locating the proposed well site in relation to a town (village) or other locatable point, such as a highway or county road, which handles the majority of the through traffic to the general area. The proposed route to the location, including appropriate distances from the point where the access route exits established roads, shall be shown. All access roads shall be appropriately labeled. Any plans for improvement and/or a statement that existing roads will be maintained in the same or better condition shall be provided. Existing roads and newly constructed roads on surface under the jurisdiction of an SMA shall be maintained in accordance with the standards of the SMA.

Information required by items (2), (3), (4), (5), (6), and (8) of this subsection also may be shown on this map if appropriately labeled or on a separate plat or map.

(2) *Access Roads to Be Constructed and Reconstructed.* All permanent and temporary access roads that are to be constructed, or reconstructed, in connection with the drilling of the proposed well shall be appropriately identified and submitted on a map or plat. Width, maximum grade, major cuts and fills, turnouts, drainage design, location and size of culverts and/or bridges, fence cut and/or cattleguards, and type of surfacing material, if any, shall be stated for all construction. In addition, where permafrost exists, the methods for protection from thawing must be indicated. Modification of proposed road design may be requird during the onsite inspection.

Information also should be furnished to indicate where existing facilities may be altered or modified. Such facilities include gates, cattleguards, culverts, and bridges which, if installed or replaced, shall be designed to adequately carry anticipated loads.

(3) *Location of Existing Wells.* It is recommended that this information be submitted on a map or plat and include all wells (water, injection or disposal, producing, and drilling) within a 1-mile radius of the proposed location.

(4) *Location of Existing and/or Proposed Facilities if Well Is Productive.*

(a) *On well pad*—A map or plat shall be included showing, to the extent known or anticipated, the location of all production facilities and lines to be installed if the well is successfully completed for production.

(b) *Off well pad*—A map or plat shall be included showing to the extent known or anticipated, the existing or new production facilities to be utilized and the lines to be installed if the well is successfully completed for production. If

new construction, the dimensions of the facility layout are to be shown.

If the information required under (a) or (b) above is not known and cannot be accurately presented and the well subsequently is completed for production, the operator shall then comply with section IV. of this Order.

(5) *Location and Type of Water Supply (Rivers, Creeks, Springs, Lakes, Ponds, and Wells).* This information may be shown by quarter-quarter section on a map or plat, or may be a written description. The source and transportation method for all water to be used in drilling the proposed well shall be noted if the source is located on Federal or Indian lands or if water is to be used from a Federal or Indian project. If the water is obtained from other than Federal or Indian lands, only the location need be identified. Any access roads crossing Federal or Indian lands that are needed to haul the water shall be described in items G.4.b. (1) and (2), as appropriate. If a water supply well is to be drilled on the lease, it shall be so stated under this item, and the authorized officer of BLM may require the filing of a separate APD.

(6) *Construction Materials.* The lessee or operator shall state the character and intended use of all construction materials, such as sand, gravel, stone and soil material. If the materials to be used are Federally-owned, the proposed source shall be shown by either quarter-quarter section on a map or plat, or a written description. The use of materials under BLM jurisdiction is governed by 43 CFR 3610.2–3. The authorized officer shall inform the lessee or operator if the materials may be used free of charge or if an application for sale is required. If the materials to be used are Indian owned or under the jurisdiction of SMA other than BLM, the specific tribe and or Area Superintendent of BIA, or the appropriate SMA office shall be contacted to determine the appropriate procedure for use of the materials.

(7) *Methods for Handling Waste Disposal.* A written description shall be given of the methods and locations proposed for safe containment and disposal of each type of waste material (e.g., cuttings, garbage, salts, chemicals, sewage, etc.) that results from the drilling of the proposed well. Likewise, the narrative shall include plans for the eventual disposal of drilling fluids and any produced oil or water recovered during testing operations.

(8) *Ancillary Facilities.* The plans, or subsequent amendments to such plans, shall identify all ancillary facilities such as camps and airstrips as to their location, land area required, and the methods and standards to be employed in their construction. Such facilities shall be shown on a map or plat. The approximate center of proposed camps and the center line of airstrips shall be staked on the ground.

(9) *Well Site Layout.* A plat of suitable scale (not less than 1 inch=50 feet) showing the proposed drill pad and its location with respect to topographic features is required. Cross section diagrams of the drill pad showing any cuts and fills and the relation to topography are also required. The plat shall also include the proposed location of the reserve and burn pits, access roads onto the pad, turnaround areas, parking areas, living facilities, soil material stockpiles, and the orientation of the rig with respect to the pad and other facilities. Plans, if any, to line the reserve pit shall be detailed.

(10) *Plans for Reclamation of the Surface.* The program for surface reclamation upon completion of the operation, such as configuration of the reshaped topography, drainage system, segregation of spoils materials, surface manipulations, waste disposal, revegetation methods, and soil treatments, plus other practices necessary to reclaim all disturbed areas, including any access roads or portions of well pads when no longer needed, shall be stated. An estimate of the time for commencement and completion of reclamation operations, dependent on weather conditions and other local uses of the area, shall be provided.

(11) *Surface Ownership.* The surface ownership (Federal, Indian, State or private) at the well location, and for all lands crossed by roads which are to be constructed or upgraded, shall be indicated. Where the surface of the well site is privately owned, the operator shall provide the name, address and telephone number of the surface owner, unless previously provided.

(12) *Other Information.* The lessee or operator is encouraged to submit any additional information that may be helpful in processing the application.

(13) *Lessee's or Operator's Representative and Certification.* The name, address and telephone number of the lessee's or operator's field representative shall be included. The lessee or operator submitting the APD shall certify as follows:

I hereby certify that I, or persons under my direct supervision, have inspected the proposed drill site and access route; that I am familiar with the conditions which currently exist; that the statements made in this plan are, to the best of my knowledge, true and correct; and that the work associated with operations proposed herein will be performed by ———— and its contractors and subcontractors in conformity with this plan and the terms and conditions under which it is approved. This statement is subject to the provisions of 18 U.S.C. 1001 for the filing of a false statement.

Date ————.

Name and Title ————.

5. *Environmental Review Requirements.*

When an onsite inspection is conducted, it shall be made by representatives of the authorized officer and the operator, and other interested parties such as the involved SMA, the appropriate Alaska Borough (when a subsistence stipulation is part of the lease), and the operator's principal (construction and drilling) contractors. It is recommended that, when appropriate, the operator's surveyor and archeologist should also participate in the inspection. The purpose of this inspection shall be to ensure the staked location, access roads and other areas proposed for surface disturbance are geologically and environmentally acceptable, giving appropriate consideration to all applicable Federal laws and regulations. Lessees and operators are encouraged to designate their future drilling sites so that several locations may be inspected at one time.

a. *Federal Responsibilities.* When an inspection is made, the information obtained shall be utilized by BLM in appraising the environmental effects associated with the proposed action and in preparing pertinent portions of the required environmental documentation. As the approving agency, BLM has the lead responsibility for completing the environmental review process and establishing the terms and conditions under which the proposed action may be approved. The conduct of the environmental review process, under the Department of the Interior's implementing procedures pursuant to the National Environmental Policy Act, will result in the preparation of a Record of Review (ROR) and/or an EA, consistent with pertinent regulations and procedures. This review shall identify the probable and potential environmental impacts associated with the proposal and methods for mitigating these impacts and shall be the basis of the approving official's determination as to whether approval of the proposed activity would or would not constitute a major Federal action significantly affecting the quality of the human environment as defined by section 102(2)(C) of the National Environmental Policy Act of 1969. A "would constitute" determination shall necessitate the

preparation of an EIS. In that case, final action on the APD shall not be taken until the EIS and Record of Decision are completed.

b. *Other Considerations.* Lessees and operators are strongly encouraged to file their NOS and/or complete APD at least 30 days in advance of the time when they wish to commence operations and to consult with the involved SMA as early as possible to identify potential areas of concern (see sections III. E. and F.).

IV. *Subsequent Operations.* Subsequent operations shall be conducted in accordance with 43 CFR Part 3160, formerly 30 CFR 221. However, where the proposed subsequent operation will result in the well being converted for injection purposes (disposal or production enhancement), lessees and operators also shall obtain an underground injection permit from EPA or the State, where the State has achieved primacy. Any information submitted in support of obtaining that permit shall be accepted by the authorized officer of BLM to the extent that it satifies the information submittal requirements of this Order.

A. *Well and Production Operations.* Before conducting further well operations that involve change in the original plan, a detailed written statement of the work shall be filed on Form 3160–5 or 3160–3, as appropriate, with the authorized officer and approval obtained before the work is started. These operations include redrilling, deepening, performing casing repairs, plugging-back, altering casing, performing nonroutine fracturing jobs, recompleting in a different interval, performing water shut-off, and converting to injection or disposal. Within 30 days of the completion of such operations, a subsequent report shall be filed on Form 3160–5 and, if the well is recompleted, a recompletion report on Form 3160–4, pursuant to 43 CFR 3162.3–2 and the information collection approval note, formerly 30 CFR 221.27 and 221.2–1.

Unless additional surface disturbance is involved and so long as the operations conform to the standard of prudent operating practice, no prior approval is required for routine fracturing or acidizing jobs, or recompletion in the same interval, but a subsequent report of these operations shall be filed on Form 3160–5, formerly 9–331, within 30 days of completion, pursuant to 43 CFR 3162–2.3 and the information collection approval note, formerly 30 CFR 221.27 and 221.2–1.

Neither prior approval nor a subsequent report is required for well clean-out work, routine well maintenance (such as pump, rods, and tubing work), or for repair, replacement, or modification of surface production equipment, provided no additional surface disturbance is involved. However, the modification of any production, treating, and measurement facilities shall require the submission of a revised schematic diagram within 30 days of the completion of such operations, pursuant to 43 CFR 3162.7–2, formerly 30 CFR 221.34.

B. *Surface Disturbing Operations.* Pursuant to 43 CFR 3162.3–2 and 3162.3–3, formerly 30 CFR 221.27 and 221.28, lessees and operators shall submit, for the approval of the authorized officer, a proposed plan of operations on Form 3160–5 prior to undertaking any subsequent new construction, reconstruction, or alteration of existing facilities including, but not limited to, roads, emergency pits, firewalls, flowlines, or other production facilities on any lease when additional surface disturbance will result. If, at the time the original APD was filed, the lessee or operator elected to defer submitting information for item III.G.4.b.(4), "Location of Existing and/or Proposed Facilities if Well is Productive," the lessee or operator shall supply this information for approval prior to construction and installation of the facilities. The authorized officer, in consultation with any other involved SMA, may require a field inspection before approving the proposal.

C. *Emergency Repairs.* Emergency repairs may be conducted without prior approval provided that the authorized officer is promptly notified. Sufficient information shall be submitted to permit a proper evaluation of any resultant surface disturbing activities as well as any planned accommodations necessary to mitigate potential adverse environmental effects.

D. *Environmental Review.* The environmental review procedures discussed in section III.G.5. of this Order shall also apply to subsequent operations which involve additional surface disturbance.

V. *Well Abandonment.* No well abandonment operations may be commenced without the prior approval of the authorized officer. In the case of newly drilled dry holes or failures and in emergency situations, oral approval may be obtained from the authorized officer subject to prompt written confirmation. For old wells not having an approved abandonment plan, a sketch showing the disturbed area and roads to be abandoned, along with the proposed reclamation measures, shall be submitted with Form 3160–5. On Federal and Indian surface, the appropriate SMA may request additional reclamation measures at abandonment, which normally shall be made a part of BLM's approval of abandonment. Within 30 days following completion of the well abandonment, the lessee or operator shall file with the authorized officer of BLM a Subsequent Report of Abandonment on Form 3160–5, in accordance with 43 CFR Part 3160, formerly 30 CFR Part 221. Upon completion of reclamation operations, the lessee or operator shall notify the authorized officer when the location is ready for inspection, via an additional Form 3160–5. Final abandonment shall not be approved until the surface reclamation work required by the approved drilling permit or approved abandonment notice has been completed to the satisfaction of the involved SMA.

VI. *Water Well Conversion.* The complete abandonment of a well which has encountered usable fresh water shall not be approved if the SMA or surface owner wants to acquire the well. If, at abandonment, the SMA or surface owner elects to assume further responsibility for the well, the SMA or surface owner, as appropriate, shall reimburse the lessee or operator for the cost of any recoverable casing or wellhead equipment which is to be left in or on the hole solely because it is to be completed as a water well. The lessee or operator shall abandon the well to the base of the deepest fresh water zone of interest, as required by the authorized officer, and shall complete the surface cleanup and reclamation, as required by the approved drilling permit or approved abandonment notice, immediately upon completion of the conversion operations.

VII. *Privately Owned Surface.*—A. *Federal oil and gas leases.* Where the well site and access road surface are privately owned or are held in trust for Indian benefit, the lessee or operator is responsible for reaching an agreement with BIA or the private surface owner as to the requirements for the protection of surface resources and reclamation of disturbed areas and/or damages in lieu thereof. However, if the authorized officer or any other involved SMA determines that the surface of Federal or Indian-owned lands in proximity to the proposed well site or access road on private surface will be significantly affected, the lessee or operator may be required to furnish a copy of any existing agreement between the lessee or operator and the surface owner to the authorized officer. If the agreement on

private surface is considered inadequate to protect the surface of adjacent Federal or Indian-owned lands, the authorized officer or other involved SMA may prescribe additional measures to protect the adjacent Federal or Indian lands. In the event there is no agreement between the surface owner and the operator, the operator may comply with the provisions of the law or the regulations governing the Federal or Indian right of reentry to the surface (See Subpart 3814 of this title) and the authorized officer may then proceed to issue the permit.

B. *Indian oil and gas leases.* Where the well site and access road surface are privately owned or are held in trust for an Indian or Indian tribe other than the owner of the oil and gas rights, the lessee or operator is responsible for reaching an agreement with the surface owner (or the BIA if the surface is held in trust for numerous or unlocatable Indian owners) as to the requirement for the protection of surface resources and reclamation of disturbed areas and/or damages in lieu thereof. However, if the authorized officer or any other involved SMA determines that the surface of Federal or Indian-owned lands in proximity to the proposed well site or access road on private surface will be significantly affected, the lessee or operator may be required to furnish the authorized officer a copy of any existing agreement between the lessee or operator and the surface owner. If the agreement on private surface is considered inadequate to protect the surface of adjacent Federal or Indian-owned lands, the authorized officer or other involved SMA may prescribe additional measures to protect the adjacent Federal or Indian-owned lands. In the event there is no agreement between the surface owner and the operator, the authorized officer may permit the operator to conduct operations if he/she determines that: (1) a good faith effort has been made by the operator to reach agreement with the surface owner; (2) adequate security is posted, in the form of a bond, escrow account or by other means, to compensate the surface owner for any damages; and (3) there is no legal obstacle to conducting operations in the absence of surface owner consent.

VIII. *Reports and Activities Required After Well Completion.* Within 30 days after the well completion, the lessee or operator shall furnish 2 copies of Form 3160–4, formerly 9–330 (Well Completion or Recompletion Report and Log) to the authorized officer. However, no later than the fifth business day after any well begins production anywhere on a lease site or allocated to a lease site, or resumes production in the case of a well that has been off production for more than 90 days, the lessee or operator shall notify the authorized officer of the date on which production has begun or resumed.

The notification may be provided orally if promptly confirmed in writing.

Dated: August 9, 1983.

Jeffrey F. Zabler,

Acting Assistant Director for Fluid Leasable Minerals.

Approved:

Dated: August 17, 1983.

Arnold E. Petty,

Acting Associate Director, Bureau of Land Management.

BILLING CODE 4310-84-M

SAMPLE FORMAT

NOTICE OF STAKING (Not to be used in place of Application for Permit to Drill Form 3160-3)	6. Lease Number
1. Oil Well ☐ Gas Well ☐ Other (Specify)	7. If Indian, Allottee or Tribe Name
2. Name of Operator:	8. Unit Agreement Name
3. Name of Specific Contact Person:	9. Farm or Lease Name
4. Address & Phone No. of Operator or Agent	10. Well No.
5. Surface Location of Well Attach: a) Sketch showing road entry onto pad, pad dimensions, and reserve pit. b) Topographical or other acceptable map showing location, access road, and lease boundaries.	11. Field or Wildcat Name 12. Sec., T., R., M., or Blk and Survey or Area
15. Formation Objective(s) / 16. Estimated Well Depth	13. County, Parish or Borough / 14. State
17. Additional Information (as appropriate; must include surface owner's name, address, and telephone number)	

18. Signed_____ Title_____ Date_____

Note: Upon receipt of this Notice, the Bureau of Land Management (BLM) will schedule the date of the onsite predrill inspection and notify you accordingly. The location must be staked and access road must be flagged prior to the onsite.

Operators must consider the following prior to the onsite:
a) H_2S Potential
b) Cultural Resources (Archeology)
c) Federal Right of Way or Special Use Permit

IMPORTANT: SEE REVERSE SIDE FOR INSTRUCTIONS

BILLING CODE 4310-84-C

Instructions for Preparation of Attachment A

General: This provides notice to the Bureau of Land Management (BLM) that staking has been (or will be) completed for well locations on Federal or Indian leases and serves as a request to schedule an onsite inspection. The original and one copy of this notice, together with a map and sketch, should be submitted to the appropriate BLM office.

Any item not completed may be justification for not promptly scheduling the onsite inspection.

Specific Considerations: Items included herein should be reviewed and evaluated thoroughly prior to the onsite. These items affect placement of location, road, and facilities. Failure to be prepared with complete, accurate information at the onsite may necessitate later re-evaluation of the site and an additional onsite inspection.

a. H_2S Potential: Prevailing winds, escape routes, and placement of living quarters must be considered.

b. Cultural Resources: Archeological surveys, if required, should be done prior to, during or immediately following the onsite. Changes in location due to subsequent archeological findings may require an additional onsite. Contact involved Surface Management Agency (SMA) for detailed site specific requirements.

c. Federal Right-of-Way or Special Use Permit: Access roads outside the leasehold boundary which cross Federal lands will require a right-of-way grant or special use permit and should be discussed with the BLM or other involved SMA at the time of filing the Notice of Staking.

Supplemental Checklist: The following items, if applicable, should be submitted with or prior to the Application For Permit to Drill (APD) to ensure timely approval of the application. Contact the BLM regarding specific requirements relating to each item.

a. Bonding.

b. Designation of Operator.

c. Report of Cultural Resources/ Archeology.

d. H_2S Contingency Plan.

e. Status of Plan of Development and Designation of Agent for wells in Federal units.

f. Federal Right-of-Way (BLM) or Special Use Permit (Forest Service).

Timetable: The onsite inspection will be scheduled and conducted by the BLM within 15 days after receipt of this notice. Surface protection and rehabilitation requirements will be made known to the operator by the BLM during the onsite or no later than 5 working days from the date of inspection, barring unusual circumstances. These requirements are to be incorporated into the complete APD. However, this does not exclude the possibility of additional conditions of approval being imposed.

Attachment B

Date:— _____

Bureau of Land Management

Checklist for Applicant Notification

Receipt and Acceptability of Application for Permit To Drill (APD)

Lease No.———————
Well No.———————
Lessee———————
Operator———————
Date APD Received———————

1.—APD complete as submitted.

2.—APD is deficient in the following area(s) *and* (see items 3, 4, or 5 below):

—Designation of Operator
—Designation of Agent under———————unit agreement
—Bonding
—Cultural Resources Report (depends on Federal Surface Management Agency's Requirements
—Form 9–331C
—Drilling Plan
—Other

(Refer to attachment(s) for any specifics)

3.—APD is retained; to be processed upon receipt of further information as noted above.

4.—APD is being processed; final action pending receipt of further information as noted above.

5.—APD is returned for the following reasons:———————

_____

_____

Note:— A returned APD herewith may be resubmitted when convenient at which time it will be reviewed again for technical and administrative completeness.

A retained but deficient APD must be brought to a technically and administratively acceptable level of completion within 45 days of the date of this notice or the application will be returned unapproved.

[FR Doc. 83–28642 Filed 10–20–83; 8:45 am]
BILLING CODE 4310–84–M

Dated: September 21, 1983.

Harold W. Furman II,

Acting Assistant Secretary of the Interior.

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

43 CFR Part 3460

[Circular No. 2539]

Amendment to Federal Coal Management Program Regulations

PART 3461—[AMENDED]

Under the authority of the Mineral Leasing Act of 1920, as amended and supplemented (30 U.S.C. 181 et seq.) and section 522(b) of the Surface Mining Control and Reclamation Act of 1977 (30 U.S.C. 1272(b)), Part 3460, Group 3400, Subchapter C, Chapter II of Title 43 of the Code of Federal Regulations is amended as set forth below:

1. Section 3461.1(g) is revised to read:

§ 3461.1 Criteria for assessing lands unsuitable for all or certain stipulated methods of coal mining.

* * * * *

(g)(1) *Criterion number 7.* All publicly owned places on Federal lands which are included in the National Register of Historic Places shall be considered unsuitable. This shall include any areas that the surface management agency determines, after consultation with the Advisory Council on Historic Preservation and the State Historic Preservation Officer, are necessary to protect the inherent values of the property that made it eligible for listing in the National Register.

(2) *Exceptions.* All or certain stipulated methods of coal mining may be allowed if, after consultation with the Advisory Council on Historic Preservation and the State Historic Preservation Officer, they are approved by the surface management agency, and, where appropriate, the State or local agency with jurisdiction over the historic site.

(3) *Exemptions.* This criterion does not apply to lands: to which the operator made substantial legal and financial commitments prior to January 4, 1977; on which surface coal mining operations were being conducted on August 3, 1977; or which include operations on which a permit has been issued.

Garrey E. Carruthers,

Assistant Secretary of the Interior.

[FR Doc. 83-32309 Filed 12-6-83; 8:45 am]

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[Circular No. 2540]

43 CFR Parts 3000, 3040, 3100, 3110, and 3120

Minerals Management and Oil and Gas Leasing; Amendments Clarifying the Regulations on Minerals Management and Oil and Gas Leasing of Federal Lands

Under the authority of the Mineral Leasing Act of 1920, as amended and supplemented (30 U.S.C. 181 et seq.), the Mineral Leasing Act for Acquired Lands of 1947, as amended (30 U.S.C. 351–359), the Alaska National Interests Lands Conservation Act (16 U.S.C. 3101 et seq.), the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1701 et seq.), the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 760 et seq.), the Act of May 21, 1930 (30 U.S.C. 301–306), the Omnibus Budget Reconciliation Act of 1981 (Pub. L. 97–35), the Independent Offices Appropriations Act of 1952 (31 U.S.C. 483a), the Department of the Interior Appropriations Act, Fiscal Year 1981 (Pub. L. 96–514) and the Attorney General's Opinion of April 2, 1941 (40 Op. Att. Gen. 41), Part 3040, Group 3000 and Parts 3100, 3110 and 3120, Group 3100, Subchapter C, Chapter II of Title 43 of the Code of Federal Regulations is amended as set forth below.

PART 3000—[AMENDED]

§ 3000.0–5 [Amended]

1. Section 3000.0–5, page 48 FR 33659, is amended by removing from the last sentence the citation "subpart 3112" and replacing it with the citation "section 3101.2 and subpart 3102".

PART 3040—[AMENDED]

§ 3045.4 [Amended]

2. Section 3045.4(c), page 48 FR 33661, is amended by adding in the first sentence immediately following the phrase "notice of intent" a comma.

PART 3100—[AMENDED]

§ 3100.0–3 [Amended]

3. Section 3100.0–3(d), page 48 FR 33663, is amended by adding in the first sentence immediately following the word "oil" the phrase "or gas".

§ 3101.1–2 [Amended]

4. Section 3101.1–2, page 48 FR 33665, is amended by removing the last sentence in its entirety.

§ 3101.2–5 [Amended]

5. Section 3101.2–5, page 48 FR 33665, is amended by inserting in the third sentence immediately after the word "co-lessees" the phrase ", except those operating, drilling or development contracts subject to § 3101.2–3 of this title,".

§ 3101.8 [Amended]

6. Section 3101.8, page 48 FR 33666, is amended by deleting in the first sentence the phrase "containing oil and gas".

§ 3102.4 [Amended]

7. Section 3102.4, page 48 FR 33667, is amended by removing at the beginning of the section the phrase "All applications, offers," and replacing it with the phrase "All applications, the original of offers," and by moving the parenthetical phrase that appears at the end of the section and adding it at the end of the second sentence of the section.

§ 3103.1–2 [Amended]

8. Section 3103.1–2(a), page 48 FR 33667, is amended by removing from the end of the section the phrase "Bureau of Land Management." and replacing it with the phrase "Department of the Interior—BLM."

§ 3105.4–1 [Amended]

9. Section 3105.4–1, page 48 FR 33670, is amended by removing from the end thereof the word "Director." and replacing it with the phrase "proper BLM office."

§ 3107.1 [Amended]

10. Section 3107.1, page 48 FR 33672, is amended by inserting in line six immediately after the word "approved" the phrase "communitization agreement or".

PART 3110—[AMENDED]

§ 3111.1–1 [Amended]

11. Section 3111.1–1(a), page 48 FR 33676, is amended by inserting in the fourth sentence immediately after the phrase "offer to lease" the phrase ", with each copy showing evidence of having been signed,".

§ 3111.3–1 [Amended]

12. Section 3111.3–1, page 48 FR 33677, is amended by removing from the first sentence of paragraph (c) the phrase "less than 1 year" and adding in its place the phrase "at any time".

§ 3111.3–4 [Amended]

13. Section 3111.3–4(a), page 48 FR 33677, is amended by adding at the end of the second sentence the phrase "per acre or fraction thereof."

PART 3112—[AMENDED]

§ 3112.2 [Amended]

14. Section 3112.2–1(g), page 48 FR 33678, is amended by adding in the second sentence immediately after the word "unacceptable" the phrase "or rejectable" and by removing from the end of subparagraph (1) the phrase "in a manner that permits automated processing" and by adding an "s" to the word "requirement" in subparagraph (2).

§ 3112.3 [Amended]

15. Section 3112.3, page 48 FR 33679, is amended by:

A. Revising the introductory text of paragraph (a) to read:

Published in 49 F.R. 2110, January 18, 1984 – Effective January 18, 1984

"(a) Any Part B application form shall be deemed unacceptable and a copy returned if, in the opinion of the authorized officer, it:";

B. Amending subparagraph (a)(2) by removing at the end thereof the word "or" and adding the phrase "that prevents its automated processing; or";

C. Amending subparagraph (a)(4) by removing the colon and replacing it with a period and removing all the remainder of paragraph (a);

D. Amending paragraph (b) by removing the phrase "form returned as" and replacing it with the phrase "form deemed" and by inserting immediately following the word "returned" a period and removing all the rest of paragraph (b);

E. Amending paragraph (d) by removing the word "application" and replacing it with the word "filing" and by inserting immediately after the word "returned" a period and removing all the rest of paragraph (d);

F. Amending paragraph (f) by removing immediately after the word "Failure" the phrase "to reject or" and by adding immediately after the word "unacceptable" the phrase "or rejectable";

G. Amending paragraph (h) by removing the phrase "resubmit the returned" and replacing it with the phrase "submit a copy of the returned".

§ 3112.4–1 [Amended]

16. Section 3112.4–1(a), page 48 FR 33679, is amended by removing the citation "§ 3112.3 of this title," and replacing it with the citation "subpart 3112 of this title,".

§ 3112.4–2 [Amended]

17. Section 3112.4–2, page 48 FR 33679, is amended by revising the title to read:

"§ 3112.4–2 Omitted application: selection procedure."

§ 3112.5–1 [Amended]

18. Section 3112.5–1(c), page 48 FR 33679, is amended by removing from the first sentence the phrase "first qualified" and replacing it with the word "selected".

§ 3112.7 [Amended]

19. Section 3112.7, page 48 FR 33680, is amended by removing from the first sentence the word "any" and replacing it with the word "a".

PART 3120—[AMENDED]

§ 3120.3 [Amended]

20. Section 3120.3, page 48 FR 33681, is amended by removing from the title the word "tract" and replacing it with the word "parcel" and by removing from the section the word "tract(s) and replacing it with the word "parcel(s)".

Dated: December 27, 1983.

Garrey E. Carruthers,

Assistant Secretary of the Interior

[FR Doc. 84–1239 Filed 1–17–84; 8:45 am]

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

43 CFR Part 4100

[Circular No. 2541]

Grazing Administration, Exclusive of Alaska

Under the authority of the Taylor Grazing Act of 1934 (43 U.S.C. 315 et seq.), The Federal Land Policy and Management Act of 1976 (43 U.S.C. 1701 et seq.), and the Public Rangelands Improvement Act of 1978 (43 U.S.C. 1901 et seq.), Part 4100, Group 4100 Subchapter D, Chapter II of Title 43 of the Code of Federal Regulations is amended as set forth below.

PART 4100—[AMENDED]

1. Section 4100.0–1 Purpose is revised to read as follows:

"§ 4100.0–1 Purpose.

The purpose is to provide uniform guidance for administration of grazing on the public lands exclusive of Alaska."

§ 4100.0–2 [Amended]

2. Section 4100.0–2 Objectives is revised by deleting all the language to the word "range" where it first appears and inserting instead:

The objectives of these regulations are orderly use, improvement and development of the public lands; enhancement of their productivity by prevention of overgrazing and soil deterioration, stabilization of the livestock industry dependent upon the public range;".

§ 4100.0–3 [Amended]

3. Section 4100.0–3 is amended by:

a. Revising paragraph (a) to read:

(a) The Taylor Grazing Act of June 28, 1934 as amended (43 U.S.C. 315, 315a–315r);

* * * * *

b. Revising paragraph (b) to read:

* * * * *

(b) The Federal Land Policy and Management Act of 1976 (43 U.S.C. 1701 et seq.) as amended by the Public Rangelands Improvement Act of 1978 (43 U.S.C. 1901 et seq.);

* * * * *

c. Revising paragraph (d) to read:

* * * * *

(d) Section 4 of the O&C Act of August 28, 1937 (43 U.S.C. 118(d); and

d. Redesignating paragraph (e) as paragraph (f) and inserting a new paragraph (e) to read:

* * * * *

(e) The Public Rangelands Improvement Act of 1978 (43 U.S.C. 1901 et seq.).

§ 4100.0–5 [Amended]

4. Section 4100.0–5 is amended by:

a. Amending the definition of affected interest to read as follows:

" 'Affected interest' means an individual or organization that has expressed in writing to the authorized officer concern for the management of livestock grazing on specific grazing allotments and who has been determined by the authorized officer to be an affected interest.' "; and

b. Amending the definition of "allotment management plan" by removing the word "document" where it appears and replacing it with the word "documented" and removing the word "operations" where it appears and replacing it with the word "grazing";

c. Amending the definition of "cancellation" by removing the word "Cancellation" where it appears and replacing it with the words "Cancelled or cancellation";

d. Amending the term "certified actual use" by removing the word "Certified";

Published in 49 F.R. 6440, February 21, 1984 – Effective March 22, 1984

and replacing the new term in the proper alphabetical order;

e. Removing the definition of "class of livestock" in its entirety; and replacing it with a definition to read: " 'class of livestock' means ages and/or sex groups of a kind of livestock.";

f. Amending the definition of "consultation, cooperation and coordination" by inserting a period after the word "disputes" where it appears and deleting all thereafter;

g. Removing the definition of "contiguous land" in its entirety;

h. Revising the definition of "Consultation, cooperation and coordination" to read:

" 'Consultation, cooperation and coordination' means an interactive process for seeking advice, agreement, or interchange of opinions on issues, plans, or management actions from other agencies and affected permittee(s) or lessee(s), landowners involved, the district grazing advisory boards where established, any State having lands within the area to be covered by an allotment management plan and other affected interests."

i. Inserting a definition of "Cooperative management agreement" to read:

" 'Cooperative management agreement' means a mutually agreed to plan of action embodied in an agreement between the Bureau of Land Management and a qualified applicant or operator that identifies the responsibility of the cooperative partner and performance standards applicable to the grazing operation.";

j. Revising the definition of "grazing fee year" to read:

" 'Grazing fee year' means the year, used for billing purposes, which begins on March 1, of a given year and ends on the last day of February of the following year";

k. Removing the definition of "indigenous animal" in its entirety;

l. Revising the definition of "Land use plan" to read:

" 'Land use plan' means a planning document developed in accordance with the provisions of the Federal Land Policy and Management Act which establishes coordinated management direction for resource uses on public lands."

m. Amending the definition of "livestock grazing capacity" by inserting the word "estimated" before the word "number" and by removing the phrase "on the public lands";

n. Removing the definition of "modification" in its entirety;

o. Removing the definition of "other lands under Bureau of Land Management control" in its entirety;

p. Amending the definition of "public lands" by removing the phrase "lands located on the Outer Continental Shelf" where it appears;

q. Revising the definition of "Range improvement" to read as follows:

" 'Range improvement' means authorized activities or programs which contribute to accomplishing allotment goals and objectives.";

r. Amending the definition of "service area" by removing all after the first sentence;

s. Inserting a definition of "State Director" to read as follows:

" 'State Director' means the State Director, Bureau of Land Management, or his or her authorized representative.";

t. Amending the definition of "Supplemental feed" to read as follows:

" 'Supplemental feed' means a feed which supplements the forage available from the public lands and is provided to improve livestock nutrition or rangeland management.";

u. Removing the definition of "suspended preference" in its entirety; and

v. Revising the definition of "suspension" to read:

• • • • •

" 'Suspension' means temporarily withholding, in whole or in part, a grazing preference from active grazing use. The withholding may be done voluntarily by the permittee or lessee."

• • • • •

5. Subpart 4110.

a. Subpart 4110 is revised by changing the heading to read: "Qualifications and Preference";

b. Section 4110.1 is revised by inserting the figure "4110.1–1," after the figure "§§" and before the figure "4130.3" in the first sentence and adding a new § 4110.1–1 to read as follows:

§ 4110.1–1 Acquired lands.

Where lands have been acquired by the Bureau of Land Management (BLM) through purchase, exchange, Act of Congress or Executive Order, and an agreement or the terms of the act or Executive Order provide that BLM shall honor existing grazing permits or leases, such permittees or lessees shall be considered qualified for grazing use on those acquired lands.

§ 4110.2–1 [Amended]

6. Section 4110.2–1 is amended by removing "§ 4100.0–5(g)" where it appears and replacing it with "§ 4100.0–5.".

7. Section 4110.2–1(b) is revised to read as follows:

"(b) After appropriate consultation, cooperation, and coordination, the authorized officer shall specify the length of time for which land base property shall be capable of supporting authorized livestock during the year, relative to the multiple use management objective of the public lands."

§ 4110.2–2 [Amended]

8. Section 4110.2–2 is amended by removing the "s" from the word "plans" where it appears in paragraph (a) and adding a new paragraph (d) to read as follows:

"(d) Allotments.

After consultation, cooperation and coordination, the authorized officer may designate and adjust allotment boundaries."

§ 4110.2–3 [Amended]

9. Section 41102–3 is amended by:

a. Revising paragraph 4110.2–3(a)(2) to read as follows:

"(2) The transfer applications under paragraphs (b) and (c) of this section shall evidence assignment of interest and obligation in range improvements authorized on public lands under § 4120.3 and maintained in conjunction with the transferred preference (see § 4120.3–5). The terms and conditions of the cooperative agreements and range improvement permits are binding on the transferee.";

b. Removing § 4110.2–3(d) in its entirety;

c. Redesignating § 4110.2–3(e) and 4110.2–3(f) as § 4110.2–3(d) and 4110.2–3(e), respectively; and

d. Redesignating § 4110.2–3(g) as § 4110.2–3(f) and revising it to read:

• • • • •

(f) Failure of either the transferee or the transferor to comply with the regulations of this section may result in rejection of the transfer application or cancellation of grazing preference.

§ 4110.2–4 [Removed]

10. Section 4110.2–4 is revised by removing it in its entirety.

§ 4110.3–1 [Amended]

11. Section 4110.3–1 is amended by:

a. Amending § 4110.3–1 (a) by removing the citation "§ 4130.6" where it appears and replacing it with the citation "§ 4130.1–1";

b. Amending § 4110.3–1(c) by inserting the words "After consultation, cooperation and coordination" at the beginning of the sentence; end of paragraph (c)(1); removing the word "or" at the end of paragraph (c)(2); and removing "§ 4110.5" in paragraph (c)(3) and replacing it with "§ 4130.1–1"; and

c. Removing § 4110.3–1(d) in its entirety.

§ 4110.3–2 [Amended]

12. Section 4110.3–2 is amended by:

a. Removing § 4110.3.2(c) in its entirety;

b. Removing § 4110.3–2(d) in its entirety; and

c. Removing § 4110.3–2(e) in its entirety.

13. A new section 4110.3–3 is added to read;

§ 4110.3–3 Implementation of changes in available forage.

(a) Permanent increases in the allocation of livestock forage (see 4110.3–1(b)) or suspensions of preference (see § 4110.3–2(b)) shall be implemented over a 5-year period, unless after consultation with the affected permittees or lessees and other affected interests, an agreement is reached to implement the increase or suspension in less than 5 years.

(b) After consultation, coordination and cooperation, suspensions of preference shall be implemented through a documented agreement or by decision. If data acceptable to the authorized officer are available, an initial reduction shall be taken on the effective date of the agreement or decision and the balance taken in the third and fifth years following that effective date, except as provided in paragraph (a) of this section. If data acceptable to the authorized officer to support an initial reduction are not available, additional data will be collected through monitoring. Adjustments based on the additional data shall be implemented by agreement or decision that will initiate the 5-year implementation period.

(c) When the authorized officer determines that the soil, vegetation, or other resources on the public lands require temporary protection because of conditions such as drought, fire, flood, or insect infestation, after consultation with affected permittees or lessees and other affected interests, action shall be taken to close allotments or portions of allotments to grazing by any kind of livestock or to modify authorized grazing use. Notices of closure and decisions requiring modification of authorized grazing use shall be issued as final decisions which are placed in full force and effect under § 4160.3(c) of this title.

14. Section 4110.4 is amended by:

§ 4110.4–1 [Amended]

a. Amending § 4110.4–1 by removing "4110.5" where it appears and replacing it with "4130.1–2";

§ 4110.4–2 [Amended]

b. Amending § 4110.4–2(b) by revising it to read as follows:

* * * * *

(b) When public lands are disposed of or devoted to a public purpose which precludes livestock grazing, the permittees and lessees shall be given 2 years' prior notification except in cases of emergency, national defense requirements in time of war, natural disasters, national emergency needs, etc. before their grazing permit or grazing lease and grazing preference may be canceled. A permittee or lessee may unconditionally waive the 2-year prior notification. Such a waver shall not prejudice the permittee's or lessee's right to reasonable compensation for, but not to exceed the fair market value of his or her interest in authorized permanent range improvements located on these public lands. (see § 4120.3–6).

§ 4110.5 [Removed]

15. Section 4110.5 is amended by removing it in its entirety.

§ 4110.5 [Redesignated from § 4110.6]

16. Section 4110.6 is amended by redesignating it as section 4110.5;

§§ 4120.1, 4120.2 and 4120.2–1 [Removed]

17. Subpart 4120 is amended by:

a. Removing § 4120.1 in its entirety;

b. Removing § 4120.2 in its entirety: and

c. Removing § 4120.2–1 in its entirety.

§ 4120.2–2 [Removed]

18. Section 4120.2–2 is revised by removing it in its entirely and adding a new § 4120.1 to read as follows:

§ 4120.1 Cooperative management agreements.

(a) The authorized officer of the Bureau of Land Management may enter into a cooperative management agreement with any permittee or lessee who has demonstrated exemplary rangeland management practices.

(1) A cooperative management agreement establishes the responsibilities and performance standards of the cooperating parties in managing and using of the public lands to graze livestock.

(2) A cooperative management agreement shall be consistent with, and incorporate by reference, all applicable provisions of any existing land use plan as well as the terms of the authorization(s) issued to the cooperative party to graze livestock on the allotment(s).

(3) A cooperative management agreement shall not empower the cooperating party to exclude or limit other authorized uses on the allotment(s).

(b) A cooperative management agreement shall be issued for a term of 10 years and, at the discretion of the authorized officer of the Bureau of Land Management, may be renewed.

(c) A cooperative management agreement, and a cooperating party's performance under it, shall be periodically evaluated by the Bureau of Land Management.

(d) A cooperative management agreement may be transferred by operation of law. If the cooperating party is organized as a corporation or partnership, the cooperative management agreement may, upon notice to the authorized officer, also be transferred as an incident to any change of less than 100 percent in the business organization. All other transfers of the cooperative management agreement are prohibited and shall result in its automatic termination.

§ 4120.2–3 [Amended]

19. Section 4120.2–3, Allotment management plans, is amended by:

a. Redesignating § 4120.2–3 as § 4120.2;

b. Revising the introductory text to read:

When allotment management plans are developed, the following provisions apply:

* * * * *

c. Amendment paragraph (a) by removing the second sentence;

d. Removing "§ 4120.2–1" from paragraph (a) and replacing it with "§ 4130.6";

e. Removing the phrase "prescribe a system of grazing designed" from the third sentence of paragraph (a) and replacing it with the phrase "describe the livestock grazing practices necessary";

f. Revising paragraph (b) to read:

* * * * *

b. Private and State lands shall be included in allotment management plans with the consent or at the request of the party(ies) who owns or controls those lands.;

* * * * *

g. Removing paragraph (c) in its entirety;

h. Redesignating paragraph (d) as paragraph (c) and revising it to read:

* * * * *

(c) Completed allotment management plans shall be incorporated into the terms and conditions of the affected grazing permits and leases.;

* * * * *

j. Removing paragraph (e) in its entirety; and

k. Removing paragraph (f) in its entirety:

§ 4120.3 [Amended]

20. Section 4120.3 is amended by removing it in its entirety and adding the following new §§ 4120.3, 4120.3–1, 4120.3–2, 4120.3–3, 4120.3–4, 4120.3–5, 4120.3–6, and 4120.3–7 to read as follows:

§ 4120.3 Range improvements.

§ 4120.3–1 Conditions for range improvements.

(a) Range improvements shall be installed, used, maintained, and/or modified on the public lands, or removed from these lands, in a manner consistent with multiple-use management.

(b) Prior to installing, using, maintaining, and/or modifying range improvements on the public lands, permittees or lessees shall have entered into a cooperative agreement with the Bureau of Land Management or must have an approved range improvement permit.

(c) The authorized officer may require a permittee or lessee to maintain and/or modify range improvements on the public lands under § 4130.6–2 of this title.

(d) The authorized officer may require a permittee or lessee to install range improvements on the public lands in an allotment with two or more permittees or lessees and/or to meet the terms and conditions of agreement.

(e) A range improvement permit or cooperative agreement does not convey to the permittee or cooperator any right, title, or interest in any lands or resources held by the United States

§ 4120.3–2 Cooperative agreements.

Any person may enter into a cooperative agreement with the Bureau of Land Management for the installation, use, maintenance, and/or modification of range improvements needed to achieve management objectives. The cooperative agreement shall specify the division of costs or labor, or both, between the United States and cooperator(s). Title to structural or removable improvements shall be shared by the United States and cooperator(s) in proportion to the actual amount of the respective contribution to the initial construction. Title to nonstructural or nonremovable improvements shall be in the United States.

§ 4120.3–3 Range improvement permits.

(a) Any permittee or lessee may apply for a range improvement permit to install, use, maintain, and/or modify range improvements that are needed to achieve management objectives within his/her designated allotment. The permittee or lessee shall agree to provide full funding for construction, installation, modification, or maintenance. Such range improvement permits are issued at the discretion of the authorized officer.

(b) The permittee or lessee shall have title to removable range improvement authorized under range improvement permits.

(c) The use by livestock of stock ponds or wells or wells authorized by a range improvement permit shall be controlled by the grazing permittee or lessee holding the range improvement permit.

§ 4120.3–4 Standards, design and stipulations.

Range improvement permits and cooperative agreements shall specify the standards, design, construction and maintenance criteria for the range improvements and other additional conditions and stipulations or modifications deemed necessary by the authorized officer.

§ 4120.3–5 Assignment of range improvements.

The authorized officer shall not approve the transfer of a grazing preference under § 4110.2–3 of this title or approve use by the transferee of existing range improvements, unless the transferee has agreed to compensate the transferor for fair market value of his interest in the authorized improvements within the allotment as of the date of the transfer. If the parties are unable to agree as to the amount or manner of reasonable compensation, the matter shall be resolved by the authorized officer.

§ 4120.3–6 Removal and compensation for loss of range improvements.

(a) Range improvements shall not be removed from the public lands without authorization.

(b) The authorized officer may require permittees or lessees to remove range improvements which they own on the public lands if these improvements are no longer helping to achieve land use plan or allotment goals and objectives if they fail to meet the criteria under § 4120.3–4 of this title.

(c) Whenever a grazing permit or lease is cancelled in order to devote the public lands covered by the permit or lease to another public purpose, including disposal, the permittee or lessee shall receive from the United States reasonable compensation for the adjusted value of their interest in authorized permanent improvements placed or constructed by the permittee or lessee on the public lands covered by the cancelled permit or lease. The adjusted value is to be determined by the authorized officer. Compensation shall not exceed the fair market value of the terminated portion of the permittee's or lessees interest therein. Where a range improvement is authorized by a range improvement permit, the livestock operator may elect to salvage materials and perform rehabilitation measures rather than be compensated for the adjusted value.

(d) Permittees or lessees shall be allowed 180 days from the date of cancellation of a range improvement permit or cooperative agreement to salvage material owned by them and perform rehabilitation measures necessitated by the removal.

§ 4120.3–7 Contributions.

The authorized officer may accept contributions of labor, material, equipment, or money for administration, protection, and improvement of the public lands necessary to achieve the objectives of this part.

21. Section 4120.4 is amended by removing it in its entirety and inserting a new section to read:

§ 4120.4 Special rules.

(a) When a State Director determines that local conditions require a special rule to achieve improved administration consistent with the objectives of this part, the Director may approve such rules. The rules shall be subject to public review and comment, as appropriate, and upon approval, shall become effective when published in the Federal Register as final rules. Special rules shall be published in a local newspaper.

"(b) Where the Bureau of Land Management administers the grazing use of other Federal Agency lands, the terms of an appropriate Memorandum of Understanding or Cooperative Agreement shall apply."

§§ 4120.5, through 4120–6 4120.6–7, 4120.7 and 4120.8 [Removed]

22. Section 4120.5 is removed in its entirety.

23. Sections 4120.6 through 4120.6–7 are removed in their entirety.

24. Sections 4120.7 and 4120.8 are removed in their entirety.

25. Section 4130.1 is amended by removing the word "timely" where it appears;

26. Two new sections, 4130.1–1 and 4130.1–2 are added to subpart 3140 to read:

§ 4130.1–1 Changes in grazing use.

(a) Applications for changes in grazing use should be filed with the authorized officer before the billing notices for the affecting grazing use have been issued. Applications for changes in grazing use filed after the billing notices for the affected grazing use have been issued and which required the issuance of a replacement or supplemental billing notice shall be subject to a service charge under § 4130.7–3 of this title .

(b) Changes in grazing use may be granted by the authorized officer.

§ 4130.1–2 Conflicting applications.

When more than one qualified applicant applies for livestock grazing use of the same public lands and/or where additional livestock forage or additional acreage becomes available, the authorized officer may allocate grazing use of such land or forage on the basis of § 4110.3–1 of this title or on the basis of any of the following factors:

(a) Historical use of the public lands (see § 4130.2(1)(d));

(b) Proper range management and use of water for livestock;

(c) General needs of the applicants, livestock operations;

(d) Public ingress or egress across privately owned or controlled land to public lands;

(e) Topography; and

(f) Other land use requirements unique to the situation.

§ 4130.2 [Amended]

27. Section 4130.2 is amended by:

a. Removing paragraph (a) in its entirety;

b. Redesignating paragraph (b) as paragraph (a) and revising it to read:

(a) Grazing permits or leases shall be issued to authorize livestock grazing on the public lands and other lands under the administration of the Bureau of Land Management. These grazing permits or leases shall specify terms and conditions as required by § 4130.8 of this title;

* * * * *

c. Redesignating paragraph (c) as paragraph (b);

(d) Redesignating paragraph (d)(1) as paragraph (c) and removing paragraphs (d) (2), (3) and (4);

(f) Redesignating paragraph (e) as paragraph (d) and revising it to read as follows:

"(d) Permittees or lessees holding expiring grazing permits or leases shall be given first priority for new permits or leases if:

(1) The lands for which the permit or lease is issued remain available for domestic livestock grazing;

(2) The permittee or lessee is in compliance with the rules and regulations and the terms and conditions in the permit or lease;

(3) The permittee or lessee accepts the terms and conditions to be included by the authorized officer in the new permit or lease."

g. Adding paragraph (e) to read:

* * * * *

(e) Permits or leases may incorporate the percentage of public land livestock use (see § 4130.8–2) or may include private land offered under exchange-of-use grazing agreements (see § 4130.4–1).

§ 4130.3 [Amended]

28. Section 4130.3 is amended by removing "§ 4110.5" where it appears and replacing it with § 4130.1–2".

§ 4130.4 [Amended]

29. Section 4130.4–1 is amended by removing paragraphs (b), (d), and (e) in their entirety and redesignating paragraph (c) as paragraph (b).

30. Section 4130.5 is amended by removing it in its entirety and adding a new section to read:

§ 4130.5 Ownership and identification of livestock.

(a) The permittee or lessee shall own or control and be responsible for the management of the livestock which graze the public land under a grazing permit or lease.

(b) Authorized users shall comply with the requirements of the State in which the public lands are located relating to branding of livestock, breed, grade, and number of bulls, and health and sanitation requirements; and

(c) The authorized officer may require counting and/or additional special marking or tagging of the authorized livestock in order to promote the orderly administration of the public lands.

31. Section 4130.8 is revised to read:

§ 4130.8 Terms and conditions.

Livestock grazing permits and leases shall contain terms and conditions necessary to achieve the management objectives for the public lands and other lands under Bureau of Land Management control identified in land use plans.

32. A new section, § 4130.8–1, mandatory terms and conditions, is added to read:

§ 4130.8–1 Mandatory terms and conditions.

(a) The authorized officer shall specify the kind and number of livestock, the period(s) of use, the allotment(s) to be used, and the amount of use, in animal unit months, for every grazing permit or lease. The authorized livestock grazing use shall not exceed the livestock grazing capacity and may be limited or excluded to the extent necessary to achieve the objectives established for the allotment.

(b) All permits and leases shall be made subject to cancellation, suspension, or modification for any violation of these regulations or of any term or condition of the permit or lease.

27. A new section § 4130.8–2, Other terms and conditions, is added to read:

§ 4130.8–2 Other terms and conditions.

The authorized officer may specify in grazing permits or leases other terms and conditions which will assist in achieving management objectives, provide for proper range management or assist in the orderly administration of the public rangelands. These may include but are not limited to:

(a) The class of livestock that will graze on an allotment;

(b) The breed of livestock in allotments within which two or more permittees or lessees are authorized to graze;

(c) Authorization to use, and directions for placement of supplemental feed, including salt, for improved livestock and rangeland management on the public lands;

(d) A requirement that permittees or lessees operating under a grazing permit or lease submit within 15 days after completing their annual grazing use, or as otherwise specified in the permit or lease, the actual use made;

33. Section 4130.8 is amended by adding a new § 4130.8–3 Modification to read as follows:

§ 4130.8–3 Modification.

Following careful and considered consultation, cooperation and coordination with the lessees, permittees, and other affected interests, the authorized officer may modify terms and conditons of the permit or lease if monitoring data show that present grazing use is not meeting the land use plan or management objectives.

(e) The kinds of indigenous animals authorized to graze under specific terms and conditions;

(f) Provision for livestock grazing to be temporarily delayed, discontinued or modified to allow for the reproduction.

establishment or restoration of vigor of plants, or to prevent compaction of wet soils, such as where delay of spring turnout is required because of weather conditions or lack of plant growth; and

(g) The percentage of public land use determined by the proportion of livestock forage available on public lands within the allotment compared to the total amount available from both public lands and those owned or controlled by the permittee or lessee.

§ 4130.8 [Redesignated from § 4130.7]

35. Section 4130.7 is amended by redesignating it as § 4130.8 and adding new §§ 4130.7, 4130.7–1, 4130.7–2 and 4130.7–3 to read as follows:

§ 4130.7 Fees.

§ 4130.7–1 Payment of fees.

(a) Grazing fees shall be established annually by the Secretary.

(b) Fees shall be charged for livestock grazing upon or crossing the public lands and other lands administered by the Bureau of Land Management at a specified rate per animal unit month.

(c) The full fee shall be charged for each paying animal unit which is defined as each animal six (6) months of age or over at the time of entering the public lands, for all weaned animals regardless of age, and for such animals as will become twelve (12) months of age during the authorized period of use. No charge will be made for animals under six (6) months of age at the time of entering the public lands, that are the natural progeny of animals upon which fees are paid, provided they will not become twelve (12) months of age during the authorized period of use, or for progeny born during that period.

(d) Fees are due upon issuance of billings. When billings are issued prior to the grazing season, payment will be made prior to grazing use. If allotment management plans or cooperative management agreements provide for billing after the grazing season, fees will be based on actual grazing use and will be due upon issuance.

§ 4130.7–2 Refunds.

(a) Grazing fees may be refunded where applications for change in grazing use and related refund are filed prior to the period of use for which the refund is requested.

(b) No refunds shall be made for failure to make grazing use, except during periods of range depletion due to drought, fire, or other natural causes, or in case of a general spread of disease amount the livestock that occurs during the term of a permit or lease. During these periods of range depletion the authorized officer may credit or refund fees in whole or in part, or postpone fee payment for as long as the emergency exists.

§ 4130.7–3 Service charge.

A service charge shall be assessed for each crossing permit, transfer of grazing preference and each replacement or supplemental billing notice except for actions initiated by the authorized officer. Pursuant to section 304(a) of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1734(a), calculation of the Bureau service charge assessed shall reflect processing costs and shall be adjusted periodically as costs change. Notice of changes shall be published periodically in the Federal Register.

§ 4140.1 [Amended]

36. Section 4140.1 is amended by:

a. Amending paragraph (a)(3) by removing the words "without authorization" and inserting the words "in violation of the terms and conditions of the lease or permit";

b. Amending paragraph (b)(1)(iv) by removing "§ 4120.4(d)" and replacing it with "§ 4130.5(c)";

c. Removing paragraph (b)(7) in its entirety; and

d. Removing paragraph (b)(8) in its entirety and redesignating paragraphs (9) through (11) as paragraphs (7) through (9) respectively; amending new paragraph (b)(7) by removing the word "of" where it appears and replacing it with the word "or"; and revising new paragraph (b)(8) by removing the word "certified" where it appears.

e. Revising paragraph (b) by inserting a paragraph (10) to read as follows:

"(10) Violating the Bald Eagle Protection Act or the Endangered Species Act."

§ 4150.2 [Amended]

37. Section 4150.2 is amended by:

a. Amending paragraph (b) by removing "§ 4150.5" and replacing it with "§ 4150.4"; and

b. Removing paragraph (c) in its entirety.

38. Section 4150.3 is revised to read:

§ 4150.3 Settlement.

The authorized officer shall determine if the violation is nonwillful, repeated nonwillful, willful, or repeated willful. Where violations are repeated nonwillful, the authorized officer may take action under § 4170.1–1(a) of this title. Where violations are repeated willful the authorized officer shall take action under § 4170.1–1(b) of this title. The amount due for all settlements shall include: the full value for all damages to the public lands and other property of the United States; all expenses incurred by the United States including those incurred in gathering, impounding, caring for, and disposing of livestock in cases which necessitate impoundment under § 4150.4; and shall include the amount due the United States for unauthorized grazing use as described in paragraphs (a), (b) or (c) of this section.

(a) For nonwillful violations: The value of forage consumed as determined by the average monthly rate for pasturing livestock on privately owned land (excluding irrigated land) for the 11 Western States as published annually by the Department of Agriculture.

(b) For repeated nonwillful violations: Twice the value of forage consumed as determined in paragraph (a) of this section.

(c) For willful and repeated willful violations: Three times the value of the forage consumed as determined in paragraph (a) of this section."; and

(d) Payment made under this section does not relieve the alleged violator of any criminal liability under Federal or State law.

(e) Violators shall not be authorized to make grazing use on the public lands administered by the Bureau of Land Management until any amount found to be due the United States under this section has been paid. The authorized officer may take action under § 4160.1–2 of this title to cancel or suspend grazing authorizations or to deny approval of applications for grazing use until such amounts have been paid. The proposed decision shall include a demand for payment.

§ 4150.4–1 [Amended]

39. Section 4150.4–1 is amended by removing paragraph (c) in its entirety.

§ 4150.4–2 [Amended]

40. Section 4150.4–2 is amended by removing "§ 4150.4–1(c)" where it appears.

§ 4150.4–3 [Amended]

41. Section 4150.4–3 is amended by removing the second, third, and fourth sentences.

§ 4160.1–1 [Amended]

42. Section 4160.1–1 is amended by deleting the word "The" at the beginning of the first sentence and replacing it with the phrase "In the absence of a documented agreement between the authorized officer and the permittee(s) or lessee(s), the"; inserting the following sentence after the first sentence in the opening paragraph to read:

"The authorized officer shall also send copies to other affected interests.":

and by removing paragraphs (a), (b) and (c) in their entirety.

§ 4160.1–2 [Amended]

43. Section 4160.1–2 is amended by removing "§ 4130.5–1" where it appears and replacing it with "§ 4130.7–1".

§ 4160.2 [Amended]

44. Section 4160.2 is amended by removing the word "adversely" from the first sentence.

§ 4160.3 [Amended]

45. Section 4160.3 is amended by:

a. Amending paragraph (b) by placing a comma after the word "both" and inserting the words "and on other affected interests" in the second sentence and deleting the remainder of the sentence;

b. Amending paragraph (c) by removing the last sentence in the paragraph and replacing it with the sentence "The authorized officer may place the final decision in full force and effect in an emergency to stop resource deterioration. Full force and effect decisions shall take effect on the date specified, regardless of an appeal."; and

c. Removing paragraphs (d) and (e) in their entirety.

§ 4160.4 [Amended]

46. Section 4160.4 is amended by removing the phrase "applicant, permittee, or any other".

47. Section 4170.1–2 is revised to read as follows:

§ 4170.1–2 Failure to use.

After consultation, coordination, and cooperation, the authorized officer may cancel a grazing preference to the extent of failure to use when a permittee or lessee has failed to make substantial grazing use as authorized for 2 consecutive years. (See § 4140.1(a)(2)).

48. Section 4170.1–3 is revised to read as follows:

§ 4170.1–3 Bald Eagle Protection Act and Endangered Species Act.

Violation of the Bald Eagle Protection Act or the Endangered Species Act may result in penalty under § 4170.1–1 where:

(a) Public land administered by the Bureau of Land Management is involved or affected;

(b) Such violation is related to grazing use authorized by permit or lease;

(c) The permittee or lessee has been convicted or otherwise found to be in violation of the law or regulations by a court or by final determination of any agency charged with the administration of the law where no further appeals are outstanding.

49. Section 4170.1–4 is inserted to read as follows:

§ 4170.1–4 Cooperative management agreement.

Violation of the terms and conditions of a cooperative management agreement may result in the cancellation of the agreement. Where violation of Subpart 4140 Prohibited Acts occurs, the authorized officer may take appropriate action under § 4170.1–1 of this title.

Dated: January 10, 1984.

Garrey E. Carruthers,

Assistant Secretary of the Interior.

[FR Doc. 84–4491 Filed 2–17–84; 8:45 am]

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

43 CFR Part 4100

[Circular No. 2541]

Grazing Administration, Exclusive of Alaska

AGENCY: Bureau of Land Management, Interior.

ACTION: Final rulemaking.

SUMMARY: This final rulemaking amends the regulations for the management of grazing on the public lands under the jurisdiction of the Bureau of Land Management. These regulations were issued by the Department of the Interior as proposed rulemaking and published in the Federal Register on May 13, 1983 (48 FR 21820) with an initial public comment period of 60 days. At the request of commenters, this period was extended an additional 30 days ending on August 11, 1983. One hundred fifty-six comments were received and considered during the development of this final rulemaking. These final regulations revise the regulations in 43 CFR Part 4100 by eliminating redundant [illegible]s, clarifying existing language and [illegible], and reorganizing the regulations [illegible] easier understanding.

EFFECTIVE DATE: March 22, 1984.

ADDRESS: Assistant Director for Renewable Resources (220), Bureau of Land Management, 1800 C Street, NW., Washington, D.C. 20240.

FOR FURTHER INFORMATION CONTACT:

Mr. Robert Alexander (202) 653–9210; or Mr. Richard Miller (202) 343–8735.

SUPPLEMENTARY INFORMATION: A Federal Register Notice was published on December 16, 1982 requesting comments from the public concerning the Bureau of Land Management's grazing regulations in 43 CFR Part 4100. Comments received were considered during the development of the proposed regulations which were published in the Federal Register on May 13, 1983 (48 FR 22081).

Comments received on the proposed regulations have been reviewed by the Department of Interior and carefully considered in developing the final rulemaking. Discussion of the comments is divided into two parts: the first deals with general comments on the proposed regulations and the second specifically addresses points or issues raised by commenters on individual sections of the regulations.

General

One hundred fifty-six letters of comment were received during the public comment period. Most of the public comments opposed the proposed regulations. Generally, comments opposing the regulations expressed the view that the proposed regulations would diminish the ability of the Bureau of Land Management to manage domestic livestock grazing on the public lands within a framework of multiple use management and sustained yield as mandated by the Taylor Grazing Act and the Federal Land Policy and Management Act of 1976. Many comments also interpreted the proposed regulations as limiting the opportunity for public input regarding grazing management decisions.

Some comments supported the proposed changes, generally expressing the view that they streamlined the regulations and made them easier to understand. A major objective was to remove redundant material from this section of title 43. Material which relates to internal operational procedures has been removed and is or will be incorporated into Bureau of Land Management Manuals, handbooks, and other internal directives. The preamble to these final regulations indicates where material has been removed and has been or will be placed in the BLM Manual.

Other comments expressed concern about modification of definitions by the proposed rulemaking and suggested that these and other changes proposed were not sufficiently addressed in the preamble to the proposed regulations.

Most comments opposing the proposed regulations were directed to five principal areas. These areas are addressed briefly in this general section as well as in the section on specific comments received on the proposed rulemaking:

1. Deletion of the provision in § 4120.2–1 of the existing regulations that authorized livestock use shall not exceed the livestock grazing capacity. The removal of the language that prohibited exceeding the level of grazing capacity was interpreted by many commenters as meaning that the Bureau would no longer require livestock grazing to be limited to the grazing capacity. This was not the intent of the proposal. Specific language is included in § 4130.6–1—Mandatory terms and conditions—to reflect the policy that authorized livestock grazing will not exceed the grazing capacity.

2. Deletion of the clause in § 4130.2(d)(3) of the present regulations by the proposed rulemaking which provides that permits and leases would be made subject to cancellation, suspension, or modification "as required by land use planning decisions". Deletion of this provision by the proposed regulations (§ 4130.6–1(b)) was perceived by many commenters as allowing existing grazing leases and permits to override land use planning decisions rather than making leases and permits subject to land use planning decisions as required by the Federal Land Policy and Management Act (FLPMA). Section 4130.6–3 in the final rulemaking retains authority to modify permits or leases to meet land use plan or management objectives.

3. Deletion of the clause in § 4140.1(b)(7) that an operator's grazing permit could be revoked if the operator violates Federal or State environmental protection laws (existing § 4140.1(b) (7) and (8) in the proposed § 4140.1(b)). Many comments expressed the view that use of the public lands for grazing is a privilege that should be revoked if a person fails to respect the laws protecting the public land and its resources. Other comments agreed with the regulation as proposed.

Section 4140.1(b)(5) of the final rulemaking modifies the language of the proposed rulemaking to include violation of the Bald Eagle Protection Act (16 U.S.C. 668) and the Endangered Species Act (16 U.S.C. 1540) as acts prohibited on the public lands which may result in cancellation of a grazing permit or lease because these acts specifically provide that authority to the Secretary.

4. Removal or modification of language in sections 4100.0–5 and 4160 that discusses affected interests other than livestock operators. Comments interpreted these changes as tending to exclude segments of the public from the decisionmaking process and limiting the right to protest and appeal decisions concerning livestock grazing on the public lands. Other comments expressed support for these sections of the proposed regulations. The final rulemaking provides for notifying affected interests concerning proposed and final decisions relating to grazing on the public lands.

5. Cooperative Management Agreements. (§ 4120.1) This proposal was interpreted by many comments as turning management of the public lands over to the livestock operator. Some comments approved the proposal, but suggested that complete discretion concerning the management of grazing should not be provided to the livestock operator under a Cooperative Management Agreement. The

Department has made changes to this section in the final regulations.

A comment suggested including a section on district grazing advisory boards to clarify their roles and functions. The final rulemaking does not include this suggestion because § 1784.6–5 of this title addresses this topic. To repeat the information would be redundant and add unnecessary length to the regulations.

Response of the Department of the Interior to Specific Comments on the Proposed Rulemaking

Section 4100.0–2 Objectives.

One comment requested modification of this section to indicate that the objective of the regulations was to provide technical and administrative services to facilitate and enhance the multiple use of the public lands.

After consideration of this comment the Department of the Interior determined that the section be revised to indicate more clearly that the objectives of the regulations are to provide for orderly use, improvement and development of public rangelands.

Section 4100.0–5 Definitions.

Many comments were received concerning the modification or deletion of definitions in the proposed regulations. Comments opposed modification of the definition of "affected interests" on the grounds that this modification would limit the participation of the general public in livestock grazing management decisions. Comments suggested that the proposed rule would circumscribe the scope of "affected interests" to include only those who have a direct interest in the livestock business. As proposed, the regulations would allow the authorized officer to determine which members of the public were affected by a grazing management decision. Comments opposed this provision, as well as the further requirement that individuals request in writing that they be considered as an affected interest. Comments contended that these requirements might possibly be subject to abuse and be unduly burdensome on the public.

After careful consideration of these comments, the Department of the Interior has modified the definition of affected interest to make it clear that it is the responsibility of individuals or organizations to communicate in writing to the authorized officer that they wish to be considered an affected interest.

The regulations in Part 4100 of this title do not affect the provisions for public participation in the development of land use plans found in § 1601.2 of this title. Any and all people and interests may participate in the development of land use plans and have the right to protest the final decision. The land use plan establishes the goals, objectives and management direction for livestock grazing of the public lands. In addition, a member of the public who has expressed concern in writing for management of livestock grazing on a specific allotment may be considered an affected interest with whom there is to be further consultation, cooperation and coordination in addition to being given copies of grazing decisions for an allotment.

Sections 4.470 and 4160.4 of this title provide that any party may protest management decisions where they are considered to be adverse.

A comment recommended that the definition of "allotment" be modified to indicate that allotments are administered for grazing of livestock. The Department of the Interior has considered this comment and has concluded that the existing language is adequate.

A comment suggested modifying the definition of "Allotment Management Plan" to focus on a particular public land allotment. Another opposed the deletion of the term "operations". The Department has determined that the proposed definition is sufficiently clear for the purposes of grazing management.

It was suggested that the use of the term "authorized officer" be deleted to avoid fragmentation of authority. The Department of the Interior has determined that it is important to retain the use of the term "authorized officer". The delegation of authority for range management decisions is not uniform among states and may change from time to time. In most cases, however, this will be the Area Manager or District Manager.

Comments suggested modifying the definition of "base property" by deleting the requirement of commensurability. However, the Department of the Interior has determined that the existing definition is more appropriate and should be retained because it requires that base property be capable of supporting livestock when they are not on the public lands.

Comments also were received concerning the definition of "Certified Actual Use". Some comments expressed the view that the livestock operator should be required to certify his/her actual use. Another suggested that certified actual use reports should be used only in cases of after-the-fact billing for grazing use. The Department of the Interior has determined that in actual practice the livestock operator certifies the accuracy of the actual use information when he or she signs the actual use form and the inclusion of the word "certified" in the heading of the report provides no additional benefit to the Bureau or to the operator. The proposed definition is adopted in this final rulemaking.

Comments were received on the proposed deletion of the definition of "class and kind of livestock". After considering these comments, the Department of the Interior has determined that although existing definitions in the regulations are consistent with commonly used definitions, confusion may exist because of previous definitions in this title. The final rulemaking retains existing definitions.

Although the definition was not proposed for modification in proposed rulemaking, comments were received concerning the definition of the terms "Consultation, cooperation and coordination". Three comments opposed modification of the existing definition while two proposed that the definition be revised to reflect equality of rank among the participants in the development of a grazing program. After careful consideration, the Department of the Interior has determined that the definition should be revised to clearly reflect the interactive nature of the process of consultation, cooperation and coordination. This change is made in the final rulemaking.

One comment suggested modification of the definition of "grazing preference" to indicate that grazing preference was a right to the privilege of grazing. This suggestion is inconsistent with the language of the Taylor Grazing Act (43 U.S.C. 315 et seq.) which specifically states that no rights are created through the granting of grazing permits or leases. The existing definition is retained in final rulemaking.

One comment opposed the deletion of the definition of "modification". The final rulemaking does not contain a definition of modification as its use in the regulations is standard and well understood.

Comments opposed deletion of the definition of the term "indigenous animal", interpreting the deletion to mean that wildlife would not be considered during the development of allotment management plans.

It is the policy of the Department of the Interior that requirements for wildlife habitat be considered during the development of land use plans and allotment management plans. The reference to indigenous animals in

subpart 4100 of this title addresses only the issuance of special grazing permits or leases for privately owned or controlled indigenous animals and does not refer to those wildlife managed by State game and fish departments or to endangered species for which the Department of the Interior has responsibility. The definition is a standard dictionary definition and therefore its inclusion in these regulations is not necessary for an understanding of the intent of the regulations.

Comments were received concerning the definition of "land use plan" and all opposed modification of this definition, interpreting the proposed new definition to mean that a land use plan was no longer a decision document. In order to clarify the distinction between grazing decisions and the land use plan, the proposal was modified in final rulemaking to indicate that the land use plan establishes coordinated management direction for all resource uses on the public lands including livestock grazing. Livestock grazing is then adjusted through decisions and agreements to be consistent with the coordinated management direction established in the land use plan.

Comments opposed the proposed definition of "livestock grazing capacity", perceiving the new definition to mean that the Bureau of Land Management would no longer develop a precise estimate of grazing capacity on public lands. Other comments supported this change.

After considering these comments, the final rulemaking adopts the proposed language. This definition of grazing capacity is more sensitive to the fact that grazing capacity is not an immutably fixed quantity, but is instead variable, subject to a number of factors, including goals, objectives, type of management, and weather conditions. It is important for the final regulations to reflect that the determination of grazing capacity will always be an estimate because such factors as the effect of weather on grazing capacity cannot be determined precisely in advance.

Comments were received concerning the definition of "monitoring" and how monitoring will be used by the Bureau. The Department of the Interior has determined that the existing definition is adequate and accurate, and the existing language is retained in the final rulemaking.

One comment suggested a modification in the definition of "range improvement" to make it more concise. The Department of the Interior has adopted this suggestion in final rulemaking.

No comments were received concerning the definition of "supplemental feed". However, in light of revisions to section 4140 in response to comments, the definition of "supplemental feed" was also modified in final rulemaking.

Comments were also received concerning the definition of "service area" and "suspended preference". After careful consideration of these comments the Department of the Interior has determined that the proposed definition of "service area" is accurate. Factors that should be considered in the determination of service area are more appropriately placed in the Bureau Manual System. The term "suspended preference" is not used in the regulations and therefore it is not needed in final rulemaking.

Comments suggested replacing the term "suspended preference" with the term "Temporary non-use" and developing a new definition. The Department of the Interior has determined that including this term is not necessary and has therefore not adopted this suggestion.

A definition of "State Director" has been included in final rulemaking.

Comments proposed adding a definition of the term "Stewardship Program". However, this term is not used in the regulations and would be confusing if added to the existing regulations. Therefore, this suggestion was not adopted.

Comments also suggested that a definition of "Cooperative Management Agreement" be incorporated into the regulations. The Department of the Interior has determined that inclusion of a definition of "Cooperative Management Agreement" would be in the public interest and has included a definition in the final regulations.

Section 4110 Allocation of Grazing Use.

A comment suggested the title "Grazing Allocation and Use" be substituted for the proposed section title, because the section dealt with more activities than allocating grazing use. After considering this suggestion, the Department of Interior has adopted a new title, "Qualifications and Preference", which more accurately describes the contents of this section.

4110.1–1 Acquired lands.

The final rulemaking has a new § 4110.1–1 Acquired lands. This section was added in response to a comment that the proposed regulations should clarify that permittees or lessees on lands acquired by the Bureau may be qualified without owning base property.

Comments suggested deleting § 4110.2–1(2)(b) on the grounds that the Bureau of Land Management has no authority to make a determination regarding the length of time the land base property is capable of supporting authorized livestock during the year. This provision has been in the regulations for many years as implementation of the mandate of Section 2 of the Taylor Grazing Act to provide for the orderly use, improvement and development of the public rangelands. The authority of the Department to make such a determination is consistent with the language of the Taylor Grazing Act. However, the Department has determined that the decision should not be made without cooperation, consultation, and coordination. The final rulemaking revises the proposal to reflect this policy.

One comment suggested modification of the title of § 4110.2–2 to delete the term "allocation". After considering the comment, the Department has decided to retain the term to avoid confusion with the title of section 4110.2.

Comments opposed modification of § 4110.2–2. One suggested revision of the section to require that both wild horses and wild burros be controlled in accordance with existing statutes and proper range management. Others expressed the view that the proposed language of § 4110.2–2(a) would prevent future allocation of forage to wildlife or other uses of the public lands. The intent of the proposed regulation was to clarify that present users will have priority over new preference applicants. The Department of Interior agrees that the new wording detracted from the original intent of the paragraph. The final rulemaking retains the existing language of the regulation.

Comments suggested modification of § 4120.2–2(c) by eliminating references to how the preference would be attached to the base property. After considering this comment, the Department has determined that the existing language is appropriate. No change has been made to the provision in the final rulemaking.

The proposed rulemaking deleted existing § 4120.1 Allotments and replaced it with a new proposed § 4120.1 Cooperative Management Agreements.

Comments opposed this proposed deletion. They expressed the view that such a designation of allotments is an important part of land use planning and is also important for informing the public of the condition of the public lands. Another comment suggested adding the requirement of consultation,

cooperation and coordination to the existing paragraph. The Department of the Interior has concluded that authority for the Bureau of Land Management to designate and adjust allotment boundaries is necessary for proper management of the public lands, and that this authority should not be confined to the land use planning process. Therefore the final rulemaking provides such authority in § 4110.2–2(d).

A comment supported the proposed language for § 4110.2–3 Transfer of Grazing Preference. Other comments suggested that § 4110.2–3(a)(3) be deleted as it amounted to the Bureau of Land Management establishing the conditions of sale for a livestock operation. The Department of Interior has determined that it is appropriate for the transferee to discuss the terms and conditions of a new permit or lease with the authorized officer. It is also appropriate for the authorized officer to modify the terms and conditions of the previous permit or lease as necessary to achieve multiple use objectives; and that these terms and conditions be binding. Therefore, the Department of the Interior has modified the proposed language adopted in the final rulemaking.

Another comment suggested that paragraph (d) of this section in the existing regulation be retained and modified and that approval of transfers be made mandatory by inserting the word "shall" in place of the word "may" in the paragraph. After considering this suggestion, the Department of Interior has determined that the language of the proposed regulation is appropriate.

Comments indicated that § 4110.2–3(f) as proposed requires that the transferee and transferor comply with regulations, while the responsibilities apply only to the transferee. In consideration of the comments, the Department of the Interior has determined that a properly executed transfer application requires that the transferor sign the application for transfer of the preference and the interest in range improvements. Therefore, this section of the proposed rulemaking has been adopted in the final rulemaking.

Other comments suggested that the authority to cancel a preference for failure to make proper application for transfer should be retained to assure that applications are timely filed. The final rulemaking provides that authority to the authorized officer.

Comments on the existing § 4110.2–4 urged retention of this section in final rulemaking (§ 4110.2–3) to protect the lienholder. However, the Department of the Interior has concluded that the interests of lienholders are adequately protected because notification of lienholders is part of the existing terms and conditions printed on the grazing permit or lease. Specific procedures for notifying lienholders are more appropriately placed in the Bureau Manual. The section has been deleted from the final rulemaking.

Section 4110.3 Changes in Available Forage.

One comment suggested revision to the introductory paragraph to require consultation, cooperation and coordination with district grazing advisory boards and permittees/lessees. The Department of Interior has determined that such a requirement would not be appropriate for the allocation of forage temporarily available because of the need for a timely decision. However, this requirement would be appropriate for forage that is permanently available. The final rulemaking modifies the proposed § 4110.3–1(c) to reflect the comment.

Other comments suggested that specific procedures be added to the regulations to provide for the allocation of additional available forage. Because of the wide variety of grazing management situations on the public lands, the Department of the Interior has determined that specific guidance should be provided through the Bureau Manual System. Because of this, existing language is retained except for reference numbers which were changed to their location in the final regulations.

A comment suggested retaining § 4110.3–1(d) and revising it to state that where monitoring over five years shows that additional forage for livestock is available the forage would be made available without a phase-in period. It has been determined that § 4110.3–3(a) provides authority to increase grazing in less than five years where agreement with affected interests can be reached. The suggestion was not adopted.

A comment suggested that the phrase "deteriorating forage condition" be added to the list of conditions which would serve to suspend grazing permits or leases in whole or in part in § 4110.3–2. This suggestion was not adopted, because forage deterioration is within the concept of natural causes as specified in this section of the existing regulations.

Several comments opposed deletion of § 4110.3–2(d)(2). They suggested that the new section did not provide for reduction in use to be implemented in less than five years when needed to sustain resource productivity. After careful review of the proposed §§ 4110.3–2 and 4110.3–3, the Department has determined that adequate authority is available for temporary resource protection under §§ 4110.3–2(a) and 4110.3–3(c). Permanent reductions to achieve multiple use objectives should be phased in over a five year period unless agreement can be reached by the parties involved (§ 4110.3–3(b)). Where resource conditions warrant an immediate significant reduction, the initial reductions made the first year may be large enough to significantly improve resource conditions and may be placed in full force and effect to stop resource deterioration (§ 4160.3). Therefore, the final rulemaking adopts the language of the proposed rulemaking.

Section 4110.3–3 Implementation of Changes in Available Forage.

In general, comments opposed this section of the proposed rulemaking expressing the view that delay in decisions may result in substantial long term damage to the resources. After careful consideration of these comments, particularly with reference to correct interpretation of 43 U.S.C. 1732(b), 43 U.S.C. 1752(d) and (e), the Department of the Interior has determined that existing policy and guidance for implementation of changes in available forage are consistent with the statutory language.

Comments also expressed the view that Rangeland Program Summary documents should be retained. The Department of Interior has determined that the procedures for preparation and distribution of Rangeland Program Summary documents found in the existing regulations at § 4110.3–3 are obsolete because of new procedures for land use planning. The requirement to prepare an environmental impact statement concerning livestock grazing is now often being met through the preparation of a Resource Management Plan (RMP) of which an environmental impact statement is an integral part.

In these situations, the summary record of decision for the RMP which follows the preparation of a completed land use plan may replace the Rangeland Program Summary. In some instances, additional summary documents relating to grazing management are prepared to supplement the record developed for the RMP. Guidelines for the development of such Rangeland Program Summary documents are more appropriately placed in the Bureau Manual. Therefore, there is no provision for mandatory development of Rangeland Program Summary documents in these final regulations.

Comments expressed concern that monitoring provisions in the proposed regulations would delay necessary reductions in grazing use on the public lands and result in needless deterioration of the forage resource.

Other comments supported the concept of monitoring as it was proposed. After consideration of these comments, the Department of the Interior has concluded that the proposed rulemaking is consistent with the existing policy of accumulating an accurate data base upon which to make long term resource use decisions which may have substantial impact on public land users. Therefore, this section is adopted in the final regulations.

One comment suggested that the authority in § 4110.3–2(b) should be applied following consultation, cooperation and coordination with district grazing advisory boards, permittees and/or lessees or when other tools are not practical or economical. The final rulemaking revised § 4110.3–3(b) to include consultation, cooperation and coordination prior to a grazing decision. The other procedures suggested are more appropriate for the Bureau Manual System.

Comments received on the proposed regulation at § 4110.3–3(c) recommended that overgrazing be included as one of the causes which would require temporary closure of allotments or portions of allotments to grazing, or to modify the grazing use. The Department of Interior has concluded that the proposed language is adequate in that the paragraph applies to unusual and unexpected circumstances and conditions on the public lands and is not limited to the example cited. Overgrazing would occur as a result if action were not taken to reduce the livestock grazing. Therefore, § 4110.3–3(c) has been adopted as proposed.

A comment suggested deleting the requirement for consultation with affected permittees prior to closure. After consideration of the comment, the Department of the Interior concluded that in situations which require closure to grazing it is important to consult those interests which are affected by such actions to assure that a united approach is taken to the emergency. The proposed language is retained in final rulemaking. Procedures to be followed regarding closures will be placed in the Bureau's Manual System.

Another comment suggested adoption of language to address periods of abundant forage on the public lands and the manner in which this forage should be allocated. This situation is treated in § 4110.3–1 of this title and need not be duplicated in § 4110.3–3(c). Additional procedures for allocation of temporary available forage will be provided by the Bureau Manual System.

One comment suggested that § 4110.4–1 Additional land acreage, be modified to require the authorized officer to coordinate with the district grazing advisory boards prior to allocation of additional forage to qualified applicants. This suggestion was considered and it was determined that such a requirement would not be appropriate in all cases. The suggestion was not adopted in final rulemaking. More detailed instructions will be incorporated into the Bureau Manual System.

Section 4110.4–2 Decrease in land acreage.

Comments suggested that when the public lands are disposed of or devoted to another public purpose, provision be made for compensating for the cancelled permit or lease in addition to compensating for a permittee's or lessee's interest in authorized permanent range improvements on the public lands. The suggestion also provided procedures for compensation. Other comments expressed concern that the proposed language to require a 2 year notification prior to cancelling a permit or lease in whole or in part (§ 4110.4–2(b)) would create planning and financial hardships and delays in developing mineral leases or conducting other non-grazing activities. Comments also expressed the opinion that there is confusion regarding suspension versus cancellation under such circumstances.

These comments and suggestions were considered but not adopted because of inconsistency with current policy and legislative guidance. Regulations providing for a two year notification to lessees or permittees prior to cancellation of a lease or permit are in accordance with section 402(g) of the Federal Land Policy and Management Act.

Section 4120.1 Cooperative Management Agreements.

This proposed section received numerous comments which generally objected to the proposal as it was written. Comments expressed the view that as written this provision provided insufficient authority and control to the Bureau of Land Management overgrazing on the public lands. Comments also indicated that the policy of developing cooperative management agreements which had been implemented by the Bureau of Land Management had insufficient public review. Some comments suggested that the concept of a cooperative management agreement was basically sound, but that existing guidance in the regulations was not adequate. Other comments suggested that the proposed rulemaking provided incentives for livestock operators to practice better range management practices on the public lands. Other comments argued that this section of the proposed regulations was not consistent with present policy or statutory guidance.

After considering the many comments received, the Department of the Interior determined that this section of the proposed regulations should be modified to more clearly indicate the objectives and approach of the cooperative management agreement within the general framework of multiple use management. Modifications to this effect were made in the final rulemaking.

Section 4120 Grazing Management.

The proposed rulemaking deleted § 4120.2–1(b) concerning incorporation of terms and conditions for grazing into the grazing permit in situations where there is no allotment mangement plan. A comment was recommended that this section should be retained because it is needed to give the authorized officer the ability to act in a timely manner. The Department considered this suggestion and has added §4130.6–3 which clearly provides authority to modify a permit or lease if present grazing use is not meeting the objectives established for the allotment.

A number of comments were received recommending retention of § 4120.2–1(c) which was proposed for deletion. Comments recommended retention to make it clear that under the law, permits and leases are subject to land use plans and can be cancelled or modified. In the final rulemaking, § 4130.6–3 was added to provide for modification of permits and leases to meet the objectives of a land use plan or allotment.

The proposed rulemaking would have deleted § 4120.2–1(d) because § 4130.6–1 was considered to be adequate authority for modification of terms and conditions of the grazing permit. However, comments indicated that deletion of paragraph (d) could be regarded as eliminating the requirement for annual review of the terms and conditions of a permit. Comments expressed the view that an annual requirement for review was necessary and that the existing regulations made it clear that the Bureau of Land Management has the authority to review and modify permits. Since the proposed change was not discussed the preamble to the proposed rulemaking, the comment expressed the view that the change should not be made. The Bureau of Land Management regrets this

oversight in the proposed rulemaking. However, the change was made in the body of the proposed rulemaking and did receive comments. After considering these comments, the Department of Interior has added § 4140.6–3 in the final rulemaking which provides authority to modify permits or leases where present grazing use is not meeting the land use plan or management objectives. Guidance concerning frequency of review is more appropriately placed in the Bureau Manual System.

Section 4120.2 regarding development, approval and implementation of allotment management plans received a number of comments concerning proposed language which deleted the reference to prescribing a system of grazing for an allotment. They believed the proposed language indicated a weakening of the Allotment Management Plan approach to grazing management. Comments also provided alternative language concerning the inclusion of private and State lands in an allotment management plan. Comments also suggested that the authority to revise and terminate allotment management plans should be retained by the Bureau of Land Management.

After considering these comments, the Department adopted the proposed language of § 4120.2 in the final rulemaking with a modification. The introductory sentence is deleted in final rulemaking. It was determined that the sentence did not provide any additional authority or guidance to the authorized officer or to the public concerning required contents or procedures for developing allotment mangement plans.

The proposed language regarding State and private lands more accurately reflects existing policy. Each allotment management plan will be incorporated in a lease or permit (§ 4120.2(c)) and can be modified under § 4130.3–6. The Department does not regard the proposal as weakening the approach to allotment management plans. All allotments do not require systematic grazing. Therefore, a description of livestock grazing practices to be used to achieve the objectives is adequate for a quality AMP.

Several comments were received opposing § 4120.2 of the proposed rulemaking. That section noted that the proposed section did not include the provision of the existing § 4120.2–3(e) which requires submission of a Certified Actual Use Report within 15 days of completing their annual grazing use under an allotment management plan. Comments expressed the view that certified actual use should not be a discretionary item. In studying the comments, the Department has determined that authority for the authorized officer to require an actual use report is found under § 4120.6–2(d) of this title. Further authority under § 4120.2 is not required.

The existing regulation § 4120.6–1—Conditions for range improvements, was not amended in the proposed rulemaking but was renumbered as § 4120.3–1. One comment suggested that this section should be modified to indicate that the Bureau of Land Management shall require a permittee or lessee to maintain or modify range improvements located on public lands as this is consistent with existing Bureau policy. Other commenters expressed the view that the Bureau did not have authority to require maintenance of privately owned range improvements on public lands. Another comment suggested that all fences should be maintained by permittees on both sides of the fence. One comment expressed the view that under the proposed regulations, the Bureau would not require upgrading of substandard range improvements. Other comments all suggested modified wording to this section. After considering these comments, it has been determined that it is important for the Bureau of Land Management to retain its existing authority to require maintenance, modification, and removal of range improvements on public lands. Specific guidance for implementing this authority is more appropriately placed in the Bureau of Manual System.

Section 4120.3–2 Cooperative Agreements.

Several comments were received on proposed regulations in § 4120.3–2. Some comments suggested that only permittees or lessees should be allowed to construct a range improvement. Other comments suggested sharing title to non-structural non-removable range improvements to encourage private investment. Another comment suggested that language be clarified as to why the proposal deleted language referring to lessee or permittee but retained language referring to designated allotment. The final rulemaking further modifies the existing regulation by deleting reference to designated allotment but adopted the proposed language. The final rulemaking also provides that the Bureau of Land Management will retain title to non-structural non-removable range improvements. However, the interest in such range improvements by other parties will be recognized as provided for in § 4120.3–6(c).

Section 4120.3–2 Range Improvement Permits.

Comments were also received on § 4120.3–3—Range Improvement Permits. One comment suggested that the Bureau of Land Management control the use of stock ponds or wells because of their importance for wildlife habitat. Another suggested that before the authorized officer approve a range improvement permit, he or she should consult with the local district grazing advisory board. Another suggested language that would make the issuance of range improvement permits non-discretionary. After consideration of these comments, the Department of the Interior has concluded that the language of the proposed rulemaking should be incorporated in final rulemaking. Where range improvements are privately funded the range improvement permit will include design requirements and other stipulations to assure that these improvements are compatible with wildlife habitat and other multiple use management objectives.

The Department of the Interior has further determined that discretionary authority to grant permits should be retained by the authorized officer for approval of range improvements.

The suggestion to modify the regulations to require consultation with the district grazing advisory board prior to the approval of all range improvement permits would result in an unnecessary delay to the approval of an application for a permit in many cases. Because of this, the suggestion was not adopted in final rulemaking.

Section 4120.3–4 Standards, Design and Stipulations.

Several comments were received concerning § 4120.3–4. One comment opposed adoption of the proposed language, and others suggested deleting or changing the language of the proposed rule. Comments expressed the view that this section of the rulemaking may not be consistent with State standards for design of range improvements. After considering this comment, the Department of the Interior has determined that this section should be retained in final rulemaking. The Bureau of Land Management must retain authority to assure that range improvements meet the objectives of managing the public lands on a multiple use basis.

Section 4120.3–5 Assignment of Range Improvements.

Although only the numbering and placement of this section was changed by the proposed rulemaking, the section

received some comments on substantive issues. One comment suggested deleting section, expressing the view that improvements should not be considered separately from the permit. Another suggested that they not be separated from the land. Both comments suggested that they be automatically transferred. A comment also suggested that where disagreement exists on the amount of compensation the transferor should receive from the transferee the matter should be resolved by the district grazing advisory board. The Taylor Grazing Act specifically gives the Secretary of the Interior the authority described in this section. Therefore, the existing language has been retained in final rulemaking.

Section 4120.3–6 Removal and Compensation for Range Improvements.

This section received a number of comments. Two comments suggested that language requiring the Bureau of Land Management to be notified prior to removal of range improvements be deleted where the permittee or lessee owns the improvement. This comment was not adopted because it is important that the authorized officer be aware of the proposed removal of a range improvement to assure that proper rehabilitation of the range improvement is made and that orderly administration of the range can be accomplished without the range improvement.

Another comment suggested language which was intended to make paragraph (b) of this section more consistent with existing policy. After considering this comment, changes were made to the language of this section in the final rulemaking.

Additional comments were received on § 4120.3–6(c). One comment suggested that this paragraph should be deleted and expressed the view that private lessees who elect to assume the risk of building a range improvement on public lands should not be compensated because of a change in use of the public lands which eliminated the need for the range improvement. This provision is consistent with Section 402(h) of the Federal Land Policy and Management Act which provides specific authority to the Secretary to provide reasonable compensation to a permittee for . . . "his interest in authorized permanent improvements placed or constructed on lands covered by such permit or lease, but not to exceed the fair market value of the terminated portion of the permittee's or lessee's interest therein." Thus, the pertinent paragraph is retained in final rulemaking.

Another comment suggested that the adjusted value of the range improvement be the fair market value less salvage value and where there is disagreement about such value, it should be set by standard appraisal methods.

Language has been adopted to clarify that the permittee or lessee has the option of compensation or salvage, but not both, for his/her interest in range improvements. Guidelines for determining how the adjusted value will be determined belong in the Bureau Manual.

A final suggestion was that, as written, this section only applies to range improvements made pursuant to a permit and that it should be amended to include range improvement projects constructed under cooperative agreements. Paragraph (c) contains no distinction between the two types of authorizations. Compensation can be made for either pursuant to these final regulations.

A comment was submitted concerning § 4120.3–6(d) which suggested permittees or lessees should be allowed one year to remove range improvements and should not be required to rehabilitate the site when the Bureau determines that the land should be devoted to another use or disposed of. This comment was not adopted in final rulemaking as the livestock operator has the option of either not removing the improvement and being compensated for the adjusted value or of salvaging the materials and rehabilitating the site. In addition, the 180 days allowed to salvage material may be extended by the authorized officer where there are extenuating circumstances on a case-by-case basis.

Section 4120.7 Cooperation in Management.

A comment was received regarding the proposed deletion of this section. The comment suggested that the paragraph should be retained but that the word "may" should replace the word "shall" where it appears. However, Section 307 of the Federal Land Policy and Management Act uses the word "may". Therefore, it would be inconsistent to use "shall". The Department has determined that the repetition of a section of the law is not needed and the section was deleted from final rulemaking.

Section 4130 Authorizing Grazing Use.

Comments directed to most of this section generally were supportive, agreeing that this reorganization of the existing regulations contributed to better understanding of the regulations.

Section 4130.1 Applications.

A comment referencing the proposed rulemaking at § 4130.1–2(d) expressed the view that the Department of the Interior did not have the authority to consider the availability of public access across privately owned or controlled land to public lands when deciding among conflicting applications for grazing use. This criterion has been utilized for many years in evaluating conflicting applications for livestock grazing authorized by the Taylor Grazing Act in order to assist in the orderly administration of the public lands. Eliminating it without providing adequate opportunity for the affected public to comment would be a major substantive change to the regulations. Therefore, the language in paragraph (d) is retained in final rulemaking.

Section 4130.2 Grazing Permits and Leases.

Some comments were opposed to the proposed deletion of § 4130.2(d)(2) that is in the existing regulations. However, the Department of Interior has concluded that it is repetitive of the proposed § 4130.2(c)(1) and this suggestion was not adopted in final rulemaking.

Numerous comments opposed the deletion of § 4130.2(d) (2), (3) and (4) that are in the present regulations from the proposed § 4130.2. The comments suggested that the sections be retained to assure that the Bureau will modify permits and leases to meet the land use plan objectives and constraints. The final rulemaking in § 4130.6–3 provides authority to modify permits and leases when grazing use is not consistent with the land use plan or management objectives.

Numerous comments suggested retaining § 4130.2(e) (1) and (3) to provide for multiple use consideration. This authority appears in § 4130.2(d) of the final rulemaking.

Section 4130.4–1 Exchange of Use Agreements.

This section was modified in the proposed rulemaking to eliminate the 10-year limit on exchange of use agreements. A comment suggested that this limitation be retained so that exchange of use agreements would receive periodic review. After carefully considering this suggestion, the Department of Interior has determined that the authority to enter into exchange-of-use agreements should not be limited by regulations. The BLM Manual is the appropriate place for guidance for the appropriate cycle of

review, modification, and renewal of exchange of use agreements.

Another comment on § 4130.4–1 suggested wording which would require the authorized officer to coordinate exchange of use agreements with state administering agencies to ensure that the Federal permit holder also holds a State grazing lease. This suggestion was not adopted by final rulemaking. Such a change would be a major substantive modification, granting considerable additional authority to the authorized officer. As a major change, it would require that it be presented as proposed rulemaking with an opportunity for public comment.

The proposed regulation deleted wording in § 4120.4(d) concerning the control of unauthorized grazing use and relocated this provision with modified language in § 4130.5(c). The existing regulation states that the authorized officer may require counting and/or additional or special marking or tagging of the authorized livestock in order to control unauthorized grazing use or in order to otherwise promote the orderly administration of the public lands. The Department of the Interior proposed to delete the words ". . . in order to control unauthorized grazing use or in order to otherwise . . ." because it was determined that language relating to control of unauthorized grazing was redundant. One comment suggested that the entire section be deleted. Another comment suggested that this section be modified to apply only under conditions of demonstrated willful trespass, arguing that as written, the requirement was a substantial burden on the livestock operator. After considering these comments, the Department of the Interior has determined that authority to require counting and/or additional or special marking or tagging of the authorized livestock should be clearly stated in these regulations. The proposal was adopted in final rulemaking.

Section 4130.6 Terms and Conditions.

In general, the comments received from non-livestock interests and others objected to this provision. Major concerns of most of the respondents focused on the proposed deletion of four paragraphs describing the terms and conditions for grazing permits and leases.

Many comments reacted negatively to the proposed deletion of the provision in the existing regulations which states that authorized livestock shall not exceed the grazing capacity. Comments interpreted the deletion of this provision as meaning that the Bureau of Land Management would no longer confine authorized grazing to the livestock grazing capacity. The Department of the Interior proposed this change to existing regulations because the language was redundant since livestock grazing capacity would be a factor to be considered in the development of objectives for an allotment. However, to clarify that it is the policy of the Department of the Interior to limit livestock use to livestock grazing capacity, the proposal was modified in the final rulemaking to retain a reference to livestock grazing capacity.

The Bureau of Land Management's approach to determining livestock grazing capacity is premised on establishing management objectives for an allotment. These objectives reflect the management direction and habitat goals which are developed in the land use plan. Following this, a monitoring program is implemented to determine the extent to which these goals and objectives are being attained under existing management and levels of use.

Based on the data yielded by the monitoring program, average livestock grazing capacity may be estimated. This capacity is the estimated average number of animal unit months of forage available for livestock grazing on a sustained yield basis within the framework of the objectives established for the allotment. The grazing capacity depends upon more factors than forage production and animal diet. Such management factors as season of use, kind and class of livestock, distribution of livestock, availability of water, periods of rest from grazing, and goals and objectives may be the controlling or limiting factors of grazing capacity. Forage production on much of the grazing land in the western United States is quite sensitive to external variables such as time and extent of rainfall, temperature, and rates of evaporative loss. These factors vary from year to year. Estimates of average grazing capacity derived through monitoring will reflect the average forage production and management practices actually applied to an allotment.

Another comment suggested that only in common use allotments would the authorized officer establish the number and kinds of livestock, periods of use, allotment to be used, and the amount of use in animal unit months. Another suggestion was to retain § 4120.2–1(b) of the existing regulations and move it to this section of the proposed rulemaking, adding the requirement for consultation with district grazing advisory boards. After considering these comments, the Department of the Interior has placed the authority found in the existing § 4120.2–1(b) in § 4130.6–3 of this final rulemaking.

Section 4130.6–2 Other terms and conditions.

A comment on § 4130.6–2(d) requested including language that indicated that actual use be certified. Another comment supported the proposal, expressing the view that it would contribute to better relationships between the Bureau of Land Management and the rancher, and would improve management of rangelands. As previously discussed, the livestock grazing operator certifies the accuracy of the information by signing the actual use form and the term need not be included in this section of the regulations. Other comments suggested extending the time for submission of actual use reports from 15 to 30 days. After consideration of all comments, the provision in the proposed regulation was adopted in final rulemaking.

One comment suggested adding a discussion of Stewardship Programs. After considering this comment, it has been determined that the provisions in § 4120.1 concerning cooperative management agreements respond to this comment.

Section 4130.7–1 Payment of Fees.

Several comments were received on this section. One comment requested that the term "certified" be included and that detailed procedures be retained. Another comment questioned eliminating publication of the Annual Grazing Fee in the **Federal Register**. After considering these comments, a provision has been added which clearly indicates that bills for grazing use are due upon issuance even under actual use procedures. Annual publication of the grazing fee in the **Federal Register** is not as cost effective as other means of disseminating this information. The grazing fee is published in local newspapers throughout the West where timely access to the **Federal Register** may be limited.

Section 4140 Prohibited Acts.

One comment suggested that prohibited acts should be limited to public lands. After consideration of the comment, the Department of the Interior has determined that these prohibited acts should apply to public lands and other lands administered by the Bureau of Land Management. Comments were received concerning the modification to the regulations concerning placement of supplemental feed (§ 4140.1(a)(3)). The comments suggested that there could be significant impact from supplemental

feeding without the Bureau of Land Management being aware and the Bureau would not have the administrative resources necessary to modify a large number of permits. After consideration of these comments, the Department has adopted the proposed provision in the final rulemaking. Authority to modify a permit or lease to prohibit supplemental feeding, especially maintenance supplemental feeding, is provided for in §§ 4130.6–3 and 4110.3–3(c). However, such actions should be based on local resource conditions and not apply bureauwide. The Bureau Manual will provide proper procedures for the authorized officer to manage supplemental feeding.

Numerous comments were received concerning the proposed deletion of §§ 4140.1 (b)(7) and (b)(8). The existing regulations state that permits or leases are subject to cancellation or suspension if a permittee or lessee violates Federal or State laws or regulations concerning conservation or protection of natural and cultural resources or the environment. These laws or regulations include but are not limited to those relating to air and water quality, protection of fish and wildlife, plants, the use of chemical toxicants, and wild horses and burros.

The comments expressed the view that livestock operators on the public lands should be required to respect and comply with other conservation laws and regulations.

After careful consideration, the Department has determined that the Bald Eagle Protection Act and the Endangered Species Act provide the Secretary with the authority to cancel a grazing permit or lease because of violations of these acts. Therefore, it is appropriate to express this authority in the regulations.

Another comment suggested that regulation requirements concerning littering be deleted. After considering this comment, it has been determined that this regulaiton is appropriate and it is retained in final rulemaking. Littering can be detrimental, potentially hazardous and affects other uses and users of the public lands.

Another comment suggested wording to clarify § 4140.1(b)(7). The final rulemaking corrected a typographical error by replacing "of" with "or". Section 4140.1(b)(8) has also been modified by removing the term "certified" to be consistent with other sections in this title.

Section 4150 Unauthorized Grazing Use.

This section received a number of comments, some supporting the proposed regulation and others expressing opposition to some of the proposed revisions. Other suggestions urged modification of the proposed language to clearly distinguish between willful and nonwillful trespass and urged a more lenient penalty for nonwillful trespass. These suggestions have been considered by the Department of the Interior and no change has been made in final rulemaking.

Section 4160 Administrative Remedies.

Numerous comments were received on the proposed § 4160 Administrative Remedies. The majority of the comments that addressed § 4160.1–1—Proposed Decisions were opposed to the proposed regulation. Comments interpreted the proposal as significantly limiting the non-livestock oriented public's ability to receive notice about public land grazing decisions and limit the opportunity to appeal decisions which would affect their interests. Comments expressed particular concern over the deletion of the paragraph requiring authorized officers to send copies of decisions to individuals who had indicated in writing that their interests may be affected by the proposed decision and the requirement that the authorized officer prepare and distribute a Rangeland Program Summary following completion of a grazing environmental statement.

After carefully considering these comments the Department of the Interior has concluded that it would be in the public interest to modify the proposed language to include affected interests in the procedures for proposed decisions about livestock grazing. However, as in the proposed rulemaking, a requirement for a Rangeland Program Summary document has not been included in final rulemaking. Guidelines for preparing a record of decision following environmental impact statements addressing livestock grazing will be included in the Bureau Manual system.

Section 4160.1–1 Proposed decisions on permits or leases.

Two comments opposed the proposed deletion of § 4160.1–1(c) of existing regulations stating that it is important that all individuals understand what procedures will be used in adjusting livestock use. After careful review of the proposal the Department of Interior has determined that procedures regarding what to include in a decision are more appropriately placed in a Manual Section or handbook rather than in regulations.

Section 4160.1–2 Proposed decisions on alleged violations.

One comment suggested that § 4160.1–2 be modified to provide 30 days for filing a protest to a proposed decision. The Department of Interior has determined that 15 days is adequate time to file a protest with the authorized officer.

Section 4160.2 Protests.

Numerous comments were received on this section. The proposal deleted the provision for including other affected interests among those who could protest a proposed decision. The comments believed that such a modification seriously limited the ability of the non lessees or permittees to participate in grazing decisions and protect their interests on the public lands. The Department of Interior has concluded that it is in the public interest to provide for protests of proposed decisions by affected interests and language is provided for this in the final regulations.

Section 4160.3 Final decisions.

Section 4160.3 received numerous adverse comments. They focused on the deletion of language to provide that the authorized officer serve his final decision on other known affected interests in addition to the protestant or his/her agent or both. The Department of Interior has considered the comments and concluded that it is in the public interest to notify other affected interests of the final decision. The final rulemaking adopted the proposal, with modifications.

Additional comments opposed the proposed language for § 4160.3(c), which provided authority for the authorized officer to place decisions in full force and effect only in an emergency. The comments expressed the view that the Bureau of Land Management should retain authority to place decisions in full force and effect for other than emergency reasons. The Department of Interior has concluded that the authority to place decisions in full force and effect should be utilized only in emergency situations to stop resource deterioration. Therefore, the proposed language is adopted in final rulemaking.

Section 4160.4 Appeals.

Numerous comments were also received on the proposed wording of § 4160.4 concerning appeals. The proposed regulation deleted the term "applicant, permittee, lessee, or any other". The comments expressed the view that the wording change would limit the public's involvement in public rangeland management. After

considering these comments, the Department has concluded that the proposal will not reduce the ability of the public to appeal because the proposed regulation allows any person whose interest is adversely affected by a final decision to appeal. Therefore, the proposed regulation is adopted in final rulemaking.

Section 4170 Penalties.

Section 4170.1–2 Failure to use.

In response to comments, language in § 4170.1–2 was revised to reflect the Department of Interior's policy of consultation, coordination and cooperation with livestock operators.

Section 4170.1–3 Balk Eagle Protection Act and Endangered Species Act.

The proposed regulation removed from the existing regulations the authority to modify, suspend, or cancel grazing permits or leases because of violations of the Bald Eagle Protection Act, the Endangered Species Act and other Federal and State conservation laws. Numerous comments were received concerning allowing violators of Federal or State environmental, conservation, or wildlife laws to retain grazing privileges on the public lands.

The comments were carefully considered and the Department of Interior has determined that authority for cancellation of a grazing permit or lease extends only to those statutes where such penalties are specifically provided. Thus, the final rulemaking states that violation of the Bald Eagle Protection Act or the Endangered Species Act is a prohibited act and prescribes penalties for violation. The Department has further decided to retain § 4170.1–3 to clearly specify when a penalty would be appropriate.

Section 4170.1–4 Cooperative Management Agreement.

A new section has been added which provides authority to cancel a Cooperative Management Agreement for violations of the terms and conditions of the agreement.

The principal author of these regulations is Robert Alexander, Division of Rangeland Management, assisted by the staff of the Office of Legislation and Regulatory Management, Bureau of Land Management.

To reduce the cost of publication in the Federal Register, only changes to existing regulations are provided in this notice. Following publication, copies of the complete subpart 4100 will be mailed to all lessees and permittees and will be available at BLM field offices.

The Department of the Interior has determined that this document is not a major rule under Executive Order 12291. Impacts are not expected to exceed 100 million dollars per year. Impacts are expected to affect all individuals or firms associated with livestock grazing on the public lands equally.

The Department of the Interior has further determined that this rulemaking will not have a significant impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 et seq.). Changes to the existing regulations made by these amendments will to some extent reduce the compliance burden for those individuals who hold permits or leases to graze livestock on the public lands under the jurisdiction of the Bureau of Land Management.

The information collection requirements contained in this rulemaking have been approved by the Office of Management and Budget under 44 U.S.C. 3501 et seq. and have been assigned the following approval numbers: Cooperative Agreement for Range Improvement 1004–0068; Grazing Application 1004–0005; Range Improvement Permit 1004–0019; Exchange-of-Use Agreement 1004–0020; Grazing Preference Statement 1004–0041; Grazing Application-Preference Summary and Transfer 1004–0047; Grazing Application-Authorized Agent 1004–0049; Actual Grazing Use Record 1004–0051; and Cooperative Agreement 1004–0068.

List of Subjects in 43 CFR Part 4100

Administrative practice and procedure, Grazing lands, Livestock, Penalties, Range management.

Under the authority of the Taylor Grazing Act of 1934 (43 U.S.C. 315 et seq.), The Federal Land Policy and Management Act of 1976 (43 U.S.C. 1701 et seq.), and the Public Rangelands Improvement Act of 1978 (43 U.S.C. 1901 et seq.), Part 4100, Group 4100 Subchapter D, Chapter II of Title 43 of the Code of Federal Regulations is amended as set forth below.

Dated: January 10, 1984.

Garrey E. Carruthers,

Assistant Secretary of the Interior.

PART 4100—[AMENDED]

1. Section 4100.0–1 Purpose is revised to read as follows:

"§ 4100.0–1 Purpose.

The purpose is to provide uniform guidance for administration of grazing on the public lands exclusive of Alaska."

§ 4100.0–2 [Amended]

2. Section 4100.0–2 Objectives is revised by deleting all the language to the word "range" where it first appears and inserting instead:

The objectives of these regulations are orderly use, improvement and development of the public lands; enhancement of their productivity by prevention of overgrazing and soil deterioration, stabilization of the livestock industry dependent upon the public range;".

§ 4100.0–3 [Amended]

3. Section 4100.0–3 is amended by:

a. Revising paragraph (a) to read:

(a) The Taylor Grazing Act of June 28, 1934 as amended (43 U.S.C. 315, 315a–315r);

* * * * *

b. Revising paragraph (b) to read:

* * * * *

(b) The Federal Land Policy and Management Act of 1976 (43 U.S.C. 1701 et seq.) as amended by the Public Rangelands Improvement Act of 1978 (43 U.S.C. 1901 et seq.);

* * * * *

c. Revising paragraph (d) to read:

* * * * *

(d) Section 4 of the O&C Act of August 28, 1937 (43 U.S.C. 118(d); and

d. Redesignating paragraph (e) as paragraph (f) and inserting a new paragraph (e) to read:

* * * * *

(e) The Public Rangelands Improvement Act of 1978 (43 U.S.C. 1901 et seq.).

§ 4100.0–5 [Amended]

4. Section 4100.0–5 is amended by:

a. Amending the definition of affected interest to read as follows:

" 'Affected interest' means an individual or organization that has expressed in writing to the authorized officer concern for the management of livestock grazing on specific grazing allotments and who has been determined by the authorized officer to be an affected interest.' "; and

b. Amending the definition of "allotment management plan" by removing the word "document" where it appears and replacing it with the word "documented" and removing the word "operations" where it appears and replacing it with the word "grazing";

c. Amending the definition of "cancellation" by removing the word "Cancellation" where it appears and replacing it with the words "Cancelled or cancellation";

d. Amending the term "certified actual use" by removing the word "Certified";

and replacing the new term in the proper alphabetical order;

e. Removing the definition of "class of livestock" in its entirety; and replacing it with a definition to read: " 'class of livestock' means ages and/or sex groups of a kind of livestock.";

f. Amending the definition of "consultation, cooperation and coordination" by inserting a period after the word "disputes" where it appears and deleting all thereafter;

g. Removing the definition of "contiguous land" in its entirety;

h. Revising the definition of "Consultation, cooperation and coordination" to read:

" 'Consultation, cooperation and coordination' means an interactive process for seeking advice, agreement, or interchange of opinions on issues, plans, or management actions from other agencies and affected permittee(s) or lessee(s), landowners involved, the district grazing advisory boards where established, any State having lands within the area to be covered by an allotment management plan and other affected interests."

i. Inserting a definition of "Cooperative management agreement" to read:

" 'Cooperative management agreement' means a mutually agreed to course of action embodied in an agreement between the Bureau of Land Management and a qualified applicant or operator that identifies the responsibility of the cooperative partner and performance standards applicable to the grazing operation.";

j. Revising the definition of "grazing fee year" to read:

" 'Grazing fee year' means the year, used for billing purposes, which begins on March 1, of a given year and ends on the last day of February of the following year";

k. Removing the definition of "indigenous animal" in its entirety;

l. Revising the definition of "Land use plan" to read:

" 'Land use plan' means a planning document developed in accordance with the provisions of the Federal Land Policy and Management Act which establishes coordinated management direction for resource uses on public lands."

m. Amending the definition of "livestock grazing capacity" by inserting the word "estimated" before the word "number" and by removing the phrase "on the public lands";

n. Removing the definition of "modification" in its entirety;

o. Removing the definition of "other [illegible] under Bureau of Land Management control" in its entirety;

p. Amending the definition of "public lands" by removing the phrase "lands located on the Outer Continental Shelf" where it appears;

q. Revising the definition of "Range improvement" to read as follows:

" 'Range improvement' means authorized activities or programs which contribute to accomplishing allotment goals and objectives.";

r. Amending the definition of "service area" by removing all after the first sentence;

s. Inserting a definition of "State Director" to read as follows:

" 'State Director' means the State Director, Bureau of Land Management, or his or her authorized representative.";

t. Amending the definition of "Supplemental feed" to read as follows:

" 'Supplemental feed' means a feed which supplements the forage available from the public lands and is provided to improve livestock nutrition or rangeland management.";

u. Removing the definition of "suspended preference" in its entirety; and

v. Revising the definition of "suspension" to read:

* * * * *

" 'Suspension' means temporarily withholding, in whole or in part, a grazing preference from active grazing use. The withholding may be done voluntarily by the permittee or lessee."

* * * * *

5. Subpart 4110.

a. Subpart 4110 is revised by changing the heading to read: "Qualifications and Preference";

b. Section 4110.1 is revised by inserting the figure "4110.1–1," after the figure "§§" and before the figure "4130.3" in the first sentence and adding a new § 4110.1–1 to read as follows:

§ 4110.1–1 Acquired lands.

Where lands have been acquired by the Bureau of Land Management (BLM) through purchase, exchange, Act of Congress or Executive Order, and an agreement or the terms of the act or Executive Order provide that BLM shall honor existing grazing permits or leases, such permittees or lessees shall be considered qualified for grazing use on those acquired lands.

§ 4110.2–1 [Amended]

6. Section 4110.2–1 is amended by removing "§ 4100.0–5(g)" where it appears and replacing it with "§ 4100.0–5.".

7. Section 4110.2–1(b) is revised to read as follows:

"(b) After appropriate consultation, cooperation, and coordination, the authorized officer shall specify the length of time for which land base property shall be capable of supporting authorized livestock during the year, relative to the multiple use management objective of the public lands."

§ 4110.2–2 [Amended]

8. Section 4110.2–2 is amended by removing the "s" from the word "plans" where it appears in paragraph (a) and adding a new paragraph (d) to read as follows:

"(d) Allotments.

After consultation, cooperation and coordination, the authorized officer may designate and adjust allotment boundaries."

§ 4110.2–3 [Amended]

9. Section 41102–3 is amended by:

a. Revising paragraph 4110.2–3(a)(2) to read as follows:

"(2) The transfer applications under paragraphs (b) and (c) of this section shall evidence assignment of interest and obligation in range improvements authorized on public lands under § 4120.3 and maintained in conjunction with the transferred preference (see § 4120.3–5). The terms and conditions of the cooperative agreements and range improvement permits are binding on the transferee.";

b. Removing § 4110.2–3(d) in its entirety;

c. Redesignating § 4110.2–3(e) and 4110.2–3(f) as § 4110.2–3(d) and 4110.2–3(e), respectively; and

d. Redesignating § 4110.2–3(g) as § 4110.2–3(f) and revising it to read:

* * * * *

(f) Failure of either the transferee or the transferor to comply with the regulations of this section may result in rejection of the transfer application or cancellation of grazing preference.

§ 4110.2–4 [Removed]

10. Section 4110.2–4 is revised by removing it in its entirety.

§ 4110.3–1 [Amended]

11. Section 4110.3–1 is amended by:

a. Amending § 4110.3–1 (a) by removing the citation "§ 4130.6" where it appears and replacing it with the citation "§ 4130.1–1":

b. Amending § 4110.3–1(c) by inserting the words "After consultation, cooperation and coordination"at the beginning of the sentence; end of paragraph (c)(1); removing the word "or" at the end of paragraph (c)(2); and removing "§ 4110.5" in paragraph (c)(3) and replacing it with "§ 4130.1–1"; and

c. Removing § 4110.3–1(d) in its entirety.

§ 4110.3–2 [Amended]

12. Section 4110.3–2 is amended by:

a. Removing § 4110.3.2(c) in its entirety;

b. Removing § 4110.3–2(d) in its entirety; and

c. Removing § 4110.3–2(e) in its entirety.

13. A new section 4110.3–3 is added to read;

§ 4110.3–3 Implementation of changes in available forage.

(a) Permanent increases in the allocation of livestock forage (see 4110.3–1(b)) or suspensions of preference (see § 4110.3–2(b)) shall be implemented over a 5-year period, unless after consultation with the affected permittees or lessees and other affected interests, an agreement is reached to implement the increase or suspension in less than 5 years.

(b) After consultation, coordination and cooperation, suspensions of preference shall be implemented through a documented agreement or by decision. If data acceptable to the authorized officer are available, an initial reduction shall be taken on the effective date of the agreement or decision and the balance taken in the third and fifth years following that effective date, except as provided in paragraph (a) of this section. If data acceptable to the authorized officer to support an initial reduction are not available, additional data will be collected through monitoring. Adjustments based on the additional data shall be implemented by agreement or decision that will initiate the 5-year implementation period.

(c) When the authorized officer determines that the soil, vegetation, or other resources on the public lands require temporary protection because of conditions such as drought, fire, flood, or insect infestation, after consultation with affected permittees or lessees and other affected interests, action shall be taken to close allotments or portions of allotments to grazing by any kind of livestock or to modify authorized grazing use. Notices of closure and decisions requiring modification of authorized grazing use shall be issued as final decisions which are placed in full force and effect under § 4160.3(c) of this title.

14. Section 4110.4 is amended by:

§ 4110.4–1 [Amended]

a. Amending § 4110.4–1 by removing "4110.5" where it appears and replacing it with "4130.1–2";

§ 4110.4–2 [Amended]

b. Amending § 4110.4–2(b) by revising it to read as follows:

* * * * *

(b) When public lands are disposed of or devoted to a public purpose which precludes livestock grazing, the permittees and lessees shall be given 2 years' prior notification except in cases of emergency, national defense requirements in time of war, natural disasters, national emergency needs, etc. before their grazing permit or grazing lease and grazing preference may be canceled. A permittee or lessee may unconditionally waive the 2-year prior notification. Such a waver shall not prejudice the permittee's or lessee's right to reasonable compensation for, but not to exceed the fair market value of his or her interest in authorized permanent range improvements located on these public lands. (see § 4120.3–6).

§ 4110.5 [Removed]

15. Section 4110.5 is amended by removing it in its entirety.

§ 4110.5 [Redesignated from § 4110.6]

16. Section 4110.6 is amended by redesignating it as section 4110.5.

§§ 4120.1, 4120.2 and 4120.2–1 [Removed]

17. Subpart 4120 is amended by:

a. Removing § 4120.1 in its entirety;

b. Removing § 4120.2 in its entirety; and

c. Removing § 4120.2–1 in its entirety.

§ 4120.2–2 [Removed]

18. Section 4120.2–2 is revised by removing it in its entirely and adding a new § 4120.1 to read as follows:

§ 4120.1 Cooperative management agreements.

(a) The authorized officer of the Bureau of Land Management may enter into a cooperative management agreement with any permittee or lessee who has demonstrated exemplary rangeland management practices.

(1) A cooperative management agreement establishes the responsibilities and performance standards of the cooperating parties in managing and using of the public lands to graze livestock.

(2) A cooperative management agreement shall be consistent with, and incorporate by reference, all applicable provisions of any existing land use plan as well as the terms of the authorization(s) issued to the cooperative party to graze livestock on the allotment(s).

(3) A cooperative management agreement shall not empower the cooperating party to exclude or limit other authorized uses on the allotment(s).

(b) A cooperative management agreement shall be issued for a term of 10 years and, at the discretion of the authorized officer of the Bureau of Land Management, may be renewed.

(c) A cooperative management agreement, and a cooperating party's performance under it, shall be periodically evaluated by the Bureau of Land Management.

(d) A cooperative management agreement may be transferred by operation of law. If the cooperating party is organized as a corporation or partnership, the cooperative management agreement may, upon notice to the authorized officer, also be transferred as an incident to any change of less than 100 percent in the business organization. All other transfers of the cooperative management agreement are prohibited and shall result in its automatic termination.

§ 4120.2–3 [Amended]

19. Section 4120.2–3, Allotment management plans, is amended by:

a. Redesignating § 4120.2–3 as § 4120.2;

b. Revising the introductory text to read:

When allotment management plans are developed, the following provisions apply:

* * * * *

c. Amendment paragraph (a) by removing the second sentence;

d. Removing "§ 4120.2–1" from paragraph (a) and replacing it with "§ 4130.6";

e. Removing the phrase "prescribe a system of grazing designed" from the third sentence of paragraph (a) and replacing it with the phrase "describe the livestock grazing practices necessary";

f. Revising paragraph (b) to read:

* * * * *

b. Private and State lands shall be included in allotment management plans with the consent or at the request of the party(ies) who owns or controls those lands.;

* * * * *

g. Removing paragraph (c) in its entirety;

h. Redesignating paragraph (d) as paragraph (c) and revising it to read:

* * * * *

(c) Completed allotment management plans shall be incorporated into the terms and conditions of the affected grazing permits and leases.;

* * * * *

moving paragraph (e) in its
; and
Removing paragraph (f) in its entirety;

§ 4120.3 [Amended]

20. Section 4120.3 is amended by removing it in its entirety and adding the following new §§ 4120.3, 4120.3–1, 4120.3–2, 4120.3–3, 4120.3–4, 4120.3–5, 4120.3–6, and 4120.3–7 to read as follows:

§ 4120.3 Range improvements.

§ 4120.3–1 Conditions for range improvements.

(a) Range improvements shall be installed, used, maintained, and/or modified on the public lands, or removed from these lands, in a manner consistent with multiple-use management.

(b) Prior to installing, using, maintaining, and/or modifying range improvements on the public lands, permittees or lessees shall have entered into a cooperative agreement with the Bureau of Land Management or must have an approved range improvement permit.

(c) The authorized officer may require
nittee or lessee to maintain and/or
y range improvements on the public lands under § 4130.6–2 of this title.

(d) The authorized officer may require a permittee or lessee to install range improvements on the public lands in an allotment with two or more permittees or lessees and/or to meet the terms and conditions of agreement.

(e) A range improvement permit or cooperative agreement does not convey to the permittee or cooperator any right, title, or interest in any lands or resources held by the United States.

§ 4120.3–2 Cooperative agreements.

Any person may enter into a cooperative agreement with the Bureau of Land Management for the installation, use, maintenance, and/or modification of range improvements needed to achieve management objectives. The cooperative agreement shall specify the division of costs or labor, or both, between the United States and cooperator(s). Title to structural or removable improvements shall be shared by the United States and cooperator(s) in proportion to the actual
ount of the respective contribution to
initial construction. Title to
structural or nonremovable improvements shall be in the United States.

§ 4120.3–3 Range improvement permits.

(a) Any permittee or lessee may apply for a range improvement permit to install, use, maintain, and/or modify range improvements that are needed to achieve management objectives within his/her designated allotment. The permittee or lessee shall agree to provide full funding for construction, installation, modification, or maintenance. Such range improvement permits are issued at the discretion of the authorized officer.

(b) The permittee or lessee shall have title to removable range improvement authorized under range improvement permits.

(c) The use by livestock of stock ponds or wells or wells authorized by a range improvement permit shall be controlled by the grazing permittee or lessee holding the range improvement permit.

§ 4120.3–4 Standards, design and stipulations.

Range improvement permits and cooperative agreements shall specify the standards, design, construction and maintenance criteria for the range improvements and other additional conditions and stipulations or modifications deemed necessary by the authorized officer.

§ 4120.3–5 Assignment of range improvements.

The authorized officer shall not approve the transfer of a grazing preference under § 4110.2–3 of this title or approve use by the transferee of existing range improvements, unless the transferee has agreed to compensate the transferor for fair market value of his interest in the authorized improvements within the allotment as of the date of the transfer. If the parties are unable to agree as to the amount or manner of reasonable compensation, the matter shall be resolved by the authorized officer.

§ 4120.3–6 Removal and compensation for loss of range improvements.

(a) Range improvements shall not be removed from the public lands without authorization.

(b) The authorized officer may require permittees or lessees to remove range improvements which they own on the public lands if these improvements are no longer helping to achieve land use plan or allotment goals and objectives if they fail to meet the criteria under § 4120.3–4 of this title.

(c) Whenever a grazing permit or lease is cancelled in order to devote the public lands covered by the permit or lease to another public purpose, including disposal, the permittee or lessee shall receive from the United States reasonable compensation for the adjusted value of their interest in authorized permanent improvements placed or constructed by the permittee or lessee on the public lands covered by the cancelled permit or lease. The adjusted value is to be determined by the authorized officer. Compensation shall not exceed the fair market value of the terminated portion of the permittee's or lessees interest therein. Where a range improvement is authorized by a range improvement permit, the livestock operator may elect to salvage materials and perform rehabilitation measures rather than be compensated for the adjusted value.

(d) Permittees or lessees shall be allowed 180 days from the date of cancellation of a range improvement permit or cooperative agreement to salvage material owned by them and perform rehabilitation measures necessitated by the removal.

§ 4120.3–7 Contributions.

The authorized officer may accept contributions of labor, material, equipment, or money for administration, protection, and improvement of the public lands necessary to achieve the objectives of this part.

21. Section 4120.4 is amended by removing it in its entirety and inserting a new section to read:

§ 4120.4 Special rules.

(a) When a State Director determines that local conditions require a special rule to achieve improved administration consistent with the objectives of this part, the Director may approve such rules. The rules shall be subject to public review and comment, as appropriate, and upon approval, shall become effective when published in the Federal Register as final rules. Special rules shall be published in a local newspaper.

"(b) Where the Bureau of Land Management administers the grazing use of other Federal Agency lands, the terms of an appropriate Memorandum of Understanding or Cooperative Agreement shall apply."

§§ 4120.5, through 4120–6 4120.6–7, 4120.7 and 4120.8 [Removed]

22. Section 4120.5 is removed in its entirety.

23. Sections 4120.6 through 4120.6–7 are removed in their entirety.

24. Sections 4120.7 and 4120.8 are removed in their entirety.

25. Section 4130.1 is amended by removing the word "timely" where it appears;

26. Two new sections, 4130.1–1 and 4130.1–2 are added to subpart 3140 to read;

§ 4130.1–1 Changes in grazing use.

(a) Applications for changes in grazing use should be filed with the authorized officer before the billing notices for the affecting grazing use have been issued. Applications for changes in grazing use filed after the billing notices for the affected grazing use have been issued and which required the issuance of a replacement or supplemental billing notice shall be subject to a service charge under § 4130.7–3 of this title .

(b) Changes in grazing use may be granted by the authorized officer.

§ 4130.1–2 Conflicting applications.

When more than one qualified applicant applies for livestock grazing use of the same public lands and/or where additional livestock forage or additional acreage becomes available, the authorized officer may allocate grazing use of such land or forage on the basis of § 4110.3–1 of this title or on the basis of any of the following factors:

(a) Historical use of the public lands (see § 4130.2(1)(d));

(b) Proper range management and use of water for livestock;

(c) General needs of the applicants, livestock operations;

(d) Public ingress or egress across privately owned or controlled land to public lands;

(e) Topography; and

(f) Other land use requirements unique to the situation.

§ 4130.2 [Amended]

27. Section 4130.2 is amended by:

a. Removing paragraph (a) in its entirety;

b. Redesignating paragraph (b) as paragraph (a) and revising it to read:

(a) Grazing permits or leases shall be issued to authorize livestock grazing on the public lands and other lands under the administration of the Bureau of Land Management. These grazing permits or leases shall specify terms and conditions as required by § 4130.6 of this title;

* * * * *

c. Redesignating paragraph (c) as paragraph (b);

(d) Redesignating paragraph (d)(1) as paragraph (c) and removing paragraphs (d) (2), (3) and (4);

(f) Redesignating paragraph (e) as paragraph (d) and revising it to read as follows:

"(d) Permittees or lessees holding expiring grazing permits or leases shall be given first priority for new permits or leases if:

(1) The lands for which the permit or lease is issued remain available for domestic livestock grazing;

(2) The permittee or lessee is in compliance with the rules and regulations and the terms and conditions in the permit or lease;

(3) The permittee or lessee accepts the terms and conditions to be included by the authorized officer in the new permit or lease."

g. Adding paragraph (e) to read:

* * * * *

(e) Permits or leases may incorporate the percentage of public land livestock use (see § 4130.6–2) or may include private land offered under exchange-of-use grazing agreements (see § 4130.4–1).

§ 4130.3 [Amended]

28. Section 4130.3 is amended by removing "§ 4110.5" where it appears and replacing it with § 4130.1–2".

§ 4130.4 [Amended]

29. Section 4130.4–1 is amended by removing paragraphs (b), (d), and (e) in their entirety and redesignating paragraph (c) as paragraph (b).

30. Section 4130.5 is amended by removing it in its entirety and adding a new section to read:

§ 4130.5 Ownership and identification of livestock.

(a) The permittee or lessee shall own or control and be responsible for the management of the livestock which graze the public land under a grazing permit or lease.

(b) Authorized users shall comply with the requirements of the State in which the public lands are located relating to branding of livestock, breed, grade, and number of bulls, and health and sanitation requirements; and

(c) The authorized officer may require counting and/or additional special marking or tagging of the authorized livestock in order to promote the orderly administration of the public lands.

31. Section 4130.6 is revised to read:

§ 4130.6 Terms and conditions.

Livestock grazing permits and leases shall contain terms and conditions necessary to achieve the management objectives for the public lands and other lands under Bureau of Land Management control identified in land use plans.

32. A new section, § 4130.6–1, mandatory terms and conditions, is added to read:

§ 4130.6–1 Mandatory terms and conditions.

(a) The authorized officer shall specify the kind and number of livestock, the period(s) of use, the allotment(s) to be used, and the amount of use, in animal unit months, for every grazing permit or lease. The authorized livestock grazing use shall not exceed the livestock grazing capacity and may be limited or excluded to the extent necessary to achieve the objectives established for the allotment.

(b) All permits and leases shall be made subject to cancellation, suspension, or modification for any violation of these regulations or of any term or condition of the permit or lease.

27. A new section § 4130.6–2, Other terms and conditions, is added to read:

§ 4130.6–2 Other terms and conditions.

The authorized officer may specify in grazing permits or leases other terms and conditions which will assist in achieving management objectives, provide for proper range management or assist in the orderly administration of the public rangelands. These may include but are not limited to:

(a) The class of livestock that will graze on an allotment;

(b) The breed of livestock in allotments within which two or more permittees or lessees are authorized to graze;

(c) Authorization to use, and directions for placement of supplemental feed, including salt, for improved livestock and rangeland management on the public lands;

(d) A requirement that permittees or lessees operating under a grazing permit or lease submit within 15 days after completing their annual grazing use, or as otherwise specified in the permit or lease, the actual use made;

33. Section 4130.6 is amended by adding a new § 4130.6–3 Modification to read as follows:

§ 4130.6–3 Modification.

Following careful and considered consultation, cooperation and coordination with the lessees, permittees, and other affected interests, the authorized officer may modify terms and conditons of the permit or lease if monitoring data show that present grazing use is not meeting the land use plan or management objectives.

(e) The kinds of indigenous animals authorized to graze under specific terms and conditions;

(f) Provision for livestock grazing to be temporarily delayed, discontinued or modified to allow for the reproduction

establishment or restoration of vigor of plants, or to prevent compaction of wet soils, such as where delay of spring turnout is required because of weather conditions or lack of plant growth; and

(g) The percentage of public land use determined by the proportion of livestock forage available on public lands within the allotment compared to the total amount available from both public lands and those owned or controlled by the permittee or lessee.

§ 4130.8 [Redesignated from § 4130.7]

35. Section 4130.7 is amended by redesignating it as § 4130.8 and adding new §§ 4130.7, 4130.7–1, 4130.7–2 and 4130.7–3 to read as follows:

§ 4130.7 Fees.

§ 4130.7–1 Payment of fees.

(a) Grazing fees shall be established annually by the Secretary.

(b) Fees shall be charged for livestock grazing upon or crossing the public lands and other lands administered by the Bureau of Land Management at a specified rate per animal unit month.

(c) The full fee shall be charged for each paying animal unit which is defined as each animal six (6) months of age or over at the time of entering the public lands, for all weaned animals regardless of age, and for such animals as will become twelve (12) months of age during the authorized period of use. No charge will be made for animals under six (6) months of age at the time of entering the public lands, that are the natural progeny of animals upon which fees are paid, provided they will not become twelve (12) months of age during the authorized period of use, or for progeny born during that period.

(d) Fees are due upon issuance of billings. When billings are issued prior to the grazing season, payment will be made prior to grazing use. If allotment management plans or cooperative management agreements provide for billing after the grazing season, fees will be based on actual grazing use and will be due upon issuance.

§ 4130.7–2 Refunds.

(a) Grazing fees may be refunded where applications for change in grazing use and related refund are filed prior to the period of use for which the refund is requested.

(b) No refunds shall be made for failure to make grazing use, except during periods of range depletion due to drought, fire, or other natural causes, or in case of a general spread of disease among the livestock that occurs during the term of a permit or lease. During these periods of range depletion the authorized officer may credit or refund fees in whole or in part, or postpone fee payment for as long as the emergency exists.

§ 4130.7–3 Service charge.

A service charge shall be assessed for each crossing permit, transfer of grazing preference and each replacement or supplemental billing notice except for actions initiated by the authorized officer. Pursuant to section 304(a) of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1734(a), calculation of the Bureau service charge assessed shall reflect processing costs and shall be adjusted periodically as costs change. Notice of changes shall be published periodically in the Federal Register.

§ 4140.1 [Amended]

36. Section 4140.1 is amended by:

a. Amending paragraph (a)(3) by removing the words "without authorization" and inserting the words "in violation of the terms and conditions of the lease or permit";

b. Amending paragraph (b)(1)(iv) by removing "§ 4120.4(d)" and replacing it with "§ 4130.5(c)";

c. Removing paragraph (b)(7) in its entirety; and

d. Removing paragraph (b)(8) in its entirety and redesignating paragraphs (9) through (11) as paragraphs (7) through (9) respectively; amending new paragraph (b)(7) by removing the word "of" where it appears and replacing it with the word "or"; and revising new paragraph (b)(8) by removing the word "certified" where it appears.

e. Revising paragraph (b) by inserting a paragraph (10) to read as follows:

"(10) Violating the Bald Eagle Protection Act or the Endangered Species Act."

§ 4150.2 [Amended]

37. Section 4150.2 is amended by:

a. Amending paragraph (b) by removing "§ 4150.5" and replacing it with "§ 4150.4"; and

b. Removing paragraph (c) in its entirety.

38. Section 4150.3 is revised to read:

§ 4150.3 Settlement.

The authorized officer shall determine if the violation is nonwillful, repeated nonwillful, willful, or repeated willful. Where violations are repeated nonwillful, the authorized officer may take action under § 4170.1–1(a) of this title. Where violations are repeated willful the authorized officer shall take action under § 4170.1–1(b) of this title. The amount due for all settlements shall include; the full value for all damages to the public lands and other property of the United States; all expenses incurred by the United States including those incurred in gathering, impounding, caring for, and disposing of livestock in cases which necessitate impoundment under § 4150.4; and shall include the amount due the United States for unauthorized grazing use as described in paragraphs (a), (b) or (c) of this section.

(a) For nonwillful violations: The value of forage consumed as determined by the average monthly rate for pasturing livestock on privately owned land (excluding irrigated land) for the 11 Western States as published annually by the Department of Agriculture.

(b) For repeated nonwillful violations: Twice the value of forage consumed as determined in paragraph (a) of this section.

(c) For willful and repeated willful violations: Three times the value of the forage consumed as determined in paragraph (a) of this section."; and

(d) Payment made under this section does not relieve the alleged violator of any criminal liability under Federal or State law.

(e) Violators shall not be authorized to make grazing use on the public lands administered by the Bureau of Land Management until any amount found to be due the United States under this section has been paid. The authorized officer may take action under § 4160.1–2 of this title to cancel or suspend grazing authorizations or to deny approval of applications for grazing use until such amounts have been paid. The proposed decision shall include a demand for payment.

§ 4150.4–1 [Amended]

39. Section 4150.4–1 is amended by removing paragraph (c) in its entirety.

§ 4150.4–2 [Amended]

40. Section 4150.4–2 is amended by removing "§ 4150.4–1(c)" where it appears.

§ 4150.4–3 [Amended]

41. Section 4150.4–3 is amended by removing the second, third, and fourth sentences.

§ 4160.1–1 [Amended]

42. Section 4160.1–1 is amended by deleting the word "The" at the beginning of the first sentence and replacing it with the phrase "In the absence of a documented agreement between the authorized officer and the permittee(s) or lessee(s), the"; inserting the following sentence after the first sentence in the opening paragraph to read:

"The authorized officer shall also send copies to other affected interests.";

and by removing paragraphs (a), (b) and (c) in their entirety.

§ 4160.1–2 [Amended]

43. Section 4160.1–2 is amended by removing "§ 4130.5–1" where it appears and replacing it with "§ 4130.7–1".

§ 4160.2 [Amended]

44. Section 4160.2 is amended by removing the word "adversely" from the first sentence.

§ 4160.3 [Amended]

45. Section 4160.3 is amended by:

a. Amending paragraph (b) by placing a comma after the word "both" and inserting the words "and on other affected interests" in the second sentence and deleting the remainder of the sentence;

b. Amending paragraph (c) by removing the last sentence in the paragraph and replacing it with the sentence "The authorized officer may place the final decision in full force and effect in an emergency to stop resource deterioration. Full force and effect decisions shall take effect on the date specified, regardless of an appeal."; and

c. Removing paragraphs (d) and (e) in their entirety.

§ 4160.4 [Amended]

46. Section 4160.4 is amended by removing the phrase "applicant, permittee, or any other".

47. Section 4170.1–2 is revised to read as follows:

§ 4170.1–2 Failure to use.

After consultation, coordination, and cooperation, the authorized officer may cancel a grazing preference to the extent of failure to use when a permittee or lessee has failed to make substantial grazing use as authorized for 2 consecutive years. (See § 4140.1(a)(2)).

48. Section 4170.1–3 is revised to read as follows:

§ 4170.1–3 Bald Eagle Protection Act and Endangered Species Act.

Violation of the Bald Eagle Protection Act or the Endangered Species Act may result in penalty under § 4170.1–1 where:

(a) Public land administered by the Bureau of Land Management is involved or affected;

(b) Such violation is related to grazing use authorized by permit or lease;

(c) The permittee or lessee has been convicted or otherwise found to be in violation of the law or regulations by a court or by final determination of any agency charged with the administration of the law where no further appeals are outstanding.

49. Section 4170.1–4 is inserted to read as follows:

§ 4170.1–4 Cooperative management agreement.

Violation of the terms and conditions of a cooperative management agreement may result in the cancellation of the agreement. Where violation of Subpart 4140 Prohibited Acts occurs, the authorized officer may take appropriate action under § 4170.1–1 of this title.

[FR Doc. 84–4491 Filed 2–17–84; 8:45 am]

BILLING CODE 4310–84–M

Library

DEPT. OF INTERIOR
BUR. OF LAND MANAGEMENT
1984 APR -9 PM 1:18
RECEIVED
MONTANA STATE OFFICE
BILLINGS, MONTANA

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[Circular No. 2542]

43 CFR Parts 3100, 3200, 3400 and 3500

Oil and Gas Leasing; Geothermal Resources Leasing; Coal Management; and Leasing of Minerals Other Than Oil and Gas; Amendment Changing the Collection Process for Mineral Leases

Under the authority of the Mineral Leasing Act of 1920, as amended and supplemented (30 U.S.C. 181 et seq.), the Mineral Leasing Act for Acquired Lands, as amended (30 U.S.C. 351–359), the Federal Oil and Gas Royalty Management Act of 1982 (30 U.S.C. 226), the Geothermal Steam Act of 1970 (30 U.S.C. 1001–1025), the Federal Coal Leasing Amendments Act of 1976, as amended (90 Stat. 1083–1092), and the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1701 et seq.), Groups 3100, 3200, 3400 and 3500, Subchapter C of Title 43 of the Code of Federal Regulations are amended as set forth below.

PART 3100—[AMENDED]

1. Section 3103.1–1 is revised to read:

§ 3103.1–1 Form of remittance.

All remittances shall be by U.S. currency, postal money order or negotiable instrument payable in U.S. currency and shall be made payable to the Department of the Interior—Bureau of Land Management or the Department of the Interior—Minerals Management Service, as appropriate. In the case of payments made to the Service, such payments may also be made by electronic funds transfer.

2. Section 3103.1–2(a) is revised to read:

§ 3103.1–2 Where submitted.

(a)(1) All filing fees for lease applications or offers or for applications for approval of an instrument of transfer and all first-year rentals and bonuses for leases issued under group 3100 of this title shall be paid to the proper BLM office. In addition, all second-year and subsequent rentals for non-producing leases covering: Coos Bay Wagon Road; Oregon and California Grant; BLM National Grasslands; National Petroleum Reserve—Alaska; the south half of the Red River, Oklahoma; or acquired Taylor Grazing Act lands shall be paid to the proper BLM office.

(2) All second-year and subsequent rentals for non-producing leases not covered by paragraph (a)(1) of this section shall be paid to the Service.

* * * * *

§ 3103.2–2 [Amended]

3. Section 3103.2–2 is amended by amending the introductory paragraph of the section by inserting after the phrase "proper BLM office" in the three places it appears and the phrase "improper BLM office", the one place it appears the phrase,"or the designated Service office, whichever is appropriate," and by removing the period at the end of the last complete sentence in the introductory paragraph and adding the phrase ", except that during the period April 1, 1984, through March 31, 1985, payments made improperly to either the Bureau or Service shall be forwarded to the appropriate agency."

§ 3103.3–2 [Amended]

4. Section 3103.3–2(c) is amended by removing the phrase "until the lease accounts on the non-participating acreage are returned to the Bureau of Land Management".

§ 3108.2–1 [Amended]

5. Section 3108.2–1 is amended by:

A. Amending paragraph (a) by inserting after the phrase "proper BLM office", where it appears, the phrase "or the designated Service office, as appropriate,"; and"

B. Amending paragraph (b) by:

(1) Amending the first sentence of the paragraph by inserting a comma after the word "bill" and after the word "officer";

(2) Amending the third sentence of the paragraph by inserting after the phrase "authorized officer" the phrase "or the designated Service office, as appropriate" and by removing the phrase "on a form approved by the Director"; and

(3) Amending the fourth sentence of the paragraph by inserting after the phrase "proper BLM office" the phrase "or the Service, as appropriate".

PART 3200—[AMENDED]

6. Section 3205.1–1 is revised to read:

§ 3205.1–1 Form of remittance.

All remittances shall be by U.S. currency, postal money order or negotiable instrument payable in U.S. currency and shall be made payable to the Department of the Interior—Bureau of Land Management or the Department of the Interior—the Minerals Management Service, as appropriate. In the case of payments made to the Service, such payments may also be made by electronic funds transfer.

7. Section 3205.1–2 is revised to read:

§ 3205.1–2 Where submitted.

(a)(1) All filing fees for lease applications or offers or for applications for approval of an instrument of transfer and all first-year rentals and bonuses for leases issued under group 3200 of this title shall be paid to the proper BLM office. In addition, all second-year and subsequent rentals and deferred bonus amounts payable after the first year for non-producing leases covering: Coos Bay Wagon Road; Oregon and California Grant; National Grasslands; the south half of the Red River, Oklahoma; or acquired Taylor Grazing Act lands shall be paid to the proper BLM office.

(2) All second-year and subsequent rentals and deferred bonus amounts payable after the initial payment for leases not covered by paragraph (a)(1) of this section shall be paid to the Service."

(b) All royalties on producing leases, communitized leases in producing well units, unitized leases in producing unit areas, leases on which compensatory royalty is payable and all royalty payments under easements for directional drilling are to be paid to the Service.

PART 3400—[AMENDED]

8. Section 3473.1–1 is revised to read:

§ 3473.1–1 Form of remittance.

All remittances shall be by U.S. currency, postal money order or negotiable instrument payable in U.S. currency and shall be made payable to the Department of the Interior—Bureau of Land Management or the Department of the Interior—Minerals Management Service, as appropriate. In the case of payments made to the Service, such payments may also be made by

Published in 49 F.R. 11636 March 27, 1984 - Effective April 26, 1984

electronic funds transfer.

9. Section 3473.1–2 is revised to read:

§ 3473.1–2 Where submitted.

(a)(1) All first-year rentals and the first-year portions of all bonuses for leases issued under group 3400 of this title shall be paid to the Bureau of Land Management State office having jurisdiction over the lands (43 CFR Subpart 1821). In addition, all second-year and subsequent rentals and deferred bonus amounts payable after the first year for non-producing leases covering: Coos Bay Wagon Road, Oregon and California Grant; National Grasslands; the south half of the Red River, Oklahoma; or acquired Taylor Grazing Act lands shall be paid to the Bureau of Land Management State office having jurisdiction over the lands (43 CFR Subpart 1821).

(2) All second-year and subsequent rentals and deferred bonus amounts payable after the initial payment for leases not covered by paragraph (a)(1) of this section shall be paid to the Service.

(b) All royalties on producing leases, all payments under leases in their minimum production period, and all advance royalties shall be paid to the Service.

10. Section 3503.1–1 is revised to read:

§ 3503.1–1 Form of remittance.

All remittances shall be by U.S. currency, postal money order or negotiable instrument payable in U.S. currency and shall be made payable to the Department of the Interior—Bureau of Land Management or the Department of the Interior—Minerals Management Service, as appropriate. In the case of payments made to the Service, such payments may also be made by electronic funds transfer.

PART 3500—[AMENDED]

11. Section 3503.1–2 is revised to read:

§ 3503.1–2 Where submitted.

(a)(1) All first-year rentals and bonuses for leases issued under group 3500 of this title shall be paid to the proper BLM office. In addition, all second-year and subsequent rentals for non-producing leases covering: Coos Bay Wagon Road; Oregon and California Grant; National Grasslands; the south half of the Red River, Oklahoma; or acquired Taylor Grazing Act lands shall be paid to the proper BLM office.

(2) All second-year and subsequent rentals and all payments for leases not covered by paragraph (a)(1) of this section shall be paid to the Service.

(b) All royalties on producing leases and all payments under leases in their minimum production period shall be paid to the Service.

Garrey E. Carruthers,
Assistant Secretary of the Interior.
March 20, 1984.

[FR Doc. 84–7871 Filed 3–28–84; 8:45 am]

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

43 CFR Part 3110

[Circular No. 2543]

Noncompetitive Leases; Amendment Reducing the Number of Copies Required With an Over-the-Counter Offer

Under the authority of the Mineral Leasing Act of 1920, as amended and supplemented (30 U.S.C. 181 et seq.), the Mineral Leasing Act for Acquired Lands of 1947, as amended (30 U.S.C. 351–359), the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1701 et seq.), the Act of May 21, 1930 (30 U.S.C. 301–306), the Omnibus Budget Reconciliation Act of 1981 (Pub. L. 97–35), the Independent Offices Appropriation Act of 1952 (31 U.S.C. 483a) and the Department of the Interior Appropriations Act, Fiscal Year 1981 (Pub. L. 96–514), Subpart 3111, Part 3110, Group 3100, Subchapter C, Chapter II of Title 43 of the Code of Federal Regulations is amended as set forth below.

PART 3111—[AMENDED]

1. Section 3111.1–1(a) is amended by removing the phrase "4 copies" and replacing it with the phrase "2 copies".

2. Section 3111.2–2(d) is amended by removing the phrase "5 copies" and replacing it with the phrase "3 copies".

Dated: May 1, 1984.

Garrey E. Carruthers,

Assistant Secretary of the Interior.

[FR Doc. 84–13147 Filed 5–15–84; 8:45 am]

Published in 49 F.R. 20653, May 16, 1984 - Effective June 15, 1984
Circular Distribution List

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

43 CFR Parts 3500, 3510, 3520, 3540, 3550, and 3560

[Circular No. 2543]

Leasing of Solid Minerals Other Than Coal and Oil Shale; General; Amendment of Existing Regulations To Clarify and Streamline Provisions

Under the authority of the Mineral Leasing Act of 1920, as amended and supplemented (30 U.S.C. 181 et seq.), the Mineral Leasing Act for Acquired Lands of 1947, as amended (30 U.S.C. 351–359), the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1701 et seq.), the Independent Offices Appropriation Act of 1952 (31 U.S.C. 483a), 16 U.S.C. 520 and Reorganization Plan No. 3 of 1946, Parts 3500, 3510, 3520, 3540, 3550 and 3560, Group 3500, Subchapter C, Chapter II of Title 43 of the Code of the Federal Regulations are amended as set forth below.

1. The title of Part 3500 is revised to read:

PART 3500—LEASING OF SOLID MINERALS OTHER THAN COAL AND OIL SHALE

2. Section 3500.0–3 is amended by:

A. Revising paragraph (a)(5) to read:

"(5) *Gilsonite (including all vein-type solid hydrocarbons).* Section 21 of the Act (30 U.S.C. 241), as amended by the Combined Hydrocarbons Leasing Act of 1981 (95 Stat. 1070).

B. Amending the heading of paragraph (b)(2) by removing the phrase *"Solid (Hardrock)"* and replacing it with the word *"Hardrock"*.

3. Section 3500.0–5 is revised to read:

§ 3500.0–5 Definitions.

As used in this group, the term:

(a) "Secretary" means the Secretary of the Interior.

(b) "Director" means the Director, Bureau of Land Management.

(c) "State Director" means an employee of the Bureau of Land Management who has been designated as the chief administrative officer of 1 of the Bureau's 12 administrative areas designated as "States".

(d) "Authorized officer" means any employee of the Bureau of Land Management who has been delegated the authority to perform the duties described in the relevant sections of group 3500 of this title.

(e) "Proper BLM office" means the Bureau of Land Management office having jurisdiction over the lands subject to the regulations in group 3500 of this title. (See 43 CFR Subpart 1821)

(f) "Public domain lands" means lands and interests in lands which never left the ownership of the United States, lands which were obtained by the United States in exchange for public domain lands or which were originally public domain lands that have reverted to the United States through operation of the public land laws.

(g) "Acquired lands" means lands and interests in lands which the United States obtained by deed through purchase or gift and through condemnation proceedings. It includes lands and interests in lands which may at one time have been public domain land, but which lost that identity when they were disposed of by the United States prior to the time they were reacquired.

(h) "Hardrock minerals" means all minerals available for leasing on specific lands by operation of law except for leasable minerals as defined in paragraph (i) of this section and for oil, gas, coal and oil shale.

(i) "Leasable minerals" means the chlorides, sulphates, carbonates, borates, silicates or nitrates of potassium or sodium and related or associated minerals; sulphur in the States of Louisiana and New Mexico; phosphate and related or associated minerals; native asphalt in certain lands in Oklahoma; and gilsonite (including all vein-type solid hydrocarbons).

(j) "Valuable deposit" means a mineral occurrence where minerals have been found and the evidence is of such a character that a person of ordinary prudence would be justified in the further expenditure of his/her labor and means, with a reasonable prospect of success, in developing a valuable mine.

(k) "Chiefly valuable" means a valuable deposit where there is no significant conflict between the extraction of sodium, sulphur or potassium and any non-mineral disposition of the lands. Where such extraction conflicts with other disposition, the lands shall be deemed chiefly valuable for sodium, sulphur or potassium extraction if the economic value of the lands for extraction of such minerals exceeds its economic value for any non-mineral disposition.

(l) "Rule of approximation" means that where an application embraces acreage in excess of the acreage limitation, it may be allowed for the excess acreage if exclusion of the smallest legal subdivision involved would result in a deficiency which would be greater than the excess resulting from the inclusion of such subdivision.

4. Section 3500.1–1 is revised to read:

§ 3500.1–1 Public domain and acquired minerals.

All deposits of leasable and hardrock minerals found in public domain lands and acquired lands that are available for leasing are subject to disposition under this part.

5. Adding a new § 3500.3 to read:

§ 3500.3 Environmental considerations.

Before a lease or permit is issued, the authorized officer or the appropriate surface management agency shall prepare the appropriate documentation required by the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.).

§ 3501.1–2 [Amended]

6. Section 3501.1–2 is amended by:

A. Amending paragraph (b)(1) by removing the heading and phrase "(1) *Survey for leasing—Applicant's expense.* (i) Prior to the issuance of a lease based upon discovery of valuable deposits of potassium, sodium or sulphur," and replacing it with the heading and phrase "(1) *Survey for leasing—Applicant's expense.* (i) Prior to the issuance of a noncompetitive lease based upon discovery of valuable deposits of leasable minerals or hardrock minerals,"; and

B. Amending paragraph (b)(2) by removing the phrase "a lease based upon discovery of coal and on".

§ 3501.1–4 [Amended]

7. Section 3501.1–4 is amended by:

A. Amending paragraph (b) by removing the phrase "hereinafter stated" and replacing it with the phrase "provided in subpart 3524 of this title";

B. Amending paragraph (b)(2) by removing the period at the end thereof and adding the phrase "in any one State, except where the Secretary determines pursuant to 30 U.S.C. 184(b)(2) that it is necessary to secure the economic mining of sodium compounds, holdings may equal 15,360 acres. (See § 3524.1–3 of this title).";

C. Amending paragraph (b)(4) by removing the period at the end thereof and adding the phrase "in any one State."; and

D. Revising paragraph (b)(5) to read:

* * * * *

(b) * * *

Published in 49 F.R. 17892, April 25, 1984 - Effective May 25, 1984
Circular Distribution List

(5) *Gilsonite (including all vein-type solids).* A lease may not include more than 5120 acres. Holdings of gilsonite permits and leases may not include more than 7680 acres in any one State irrespective of the number of leases.

§ 3501.2–1 [Amended]

8. Section 3501.2–1(c) is amended by removing the semicolon at the end of the paragraph and adding the phrase "and the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 471 et seq.);".

§ 3501.2–3 [Amended]

9. Section 3501.2–3(a) is amended by:

A. Amending paragraph (a)(1) by removing the phrase ", sulphur or oil shale" and replacing it with the phrase "or sulphur"; and

B. Amending the heading of paragraph (a)(2) by removing the phrase *"Solid (hardrock)"* and replacing it with the word *"Hardrock"*.

§ 3501.2–5 [Amended]

10. Section 3501.2–5(b) is amended by removing the heading and the phrase "(2) *Locatable minerals.* (Minerals other than those subject to the 1920 Act, as amended). (i) No applicant may hold more than 20,480 acres" and replacing it with the heading and the phrase "(2) *Hardrock minerals.* (i) Except as provided in § 3505.3–3 of this title, no applicant may hold in any one State more than 20,480 acres".

11. Section 3501.2–6 is amended by:

A. Revising paragraph (a) to read:

§ 3501.2–6 Consent of administering agency.

(a) *Jurisdiction of lands.* Competitive leases or leases issued under Subpart 3526 of this title or prospecting permits may be issued only with the consent of the head or other appropriate official of the executive department, independent establishment or instrumentality having jurisdiction over the lands containing the deposits, or holding a mortgage or deed of trust secured by such lands, and subject to such conditions as that official may prescribe to ensure adequate utilization of the lands for the primary purpose for which they were acquired or are being administered; and

* * * * *

B. Amending the third full sentence in paragraph (d) by inserting a comma after the phrase "Any lease".

12. Section 3501.3–2 is amended by removing from paragraph (a) the phrase "lease, permit or license" from the three places it appears and replacing it with the phrase "lease or permit" and by removing from paragraph (b)(2) the phrase "a permittee, lessee or licensee must" and replacing it with the phrase "a permittee or licensee shall".

13. Section 3502.2 is revised to read:

§ 3502.2 Individuals—statement of citizenship.

Individual applicants shall submit a signed statement of citizenship and of compliance with the appropriate acreage limitations with each application for a permit or lease.

14. Section 3503.1–2 is revised to read:

§ 3503.1–2 Where remitted.

(a)(1) All first-year rentals and bonuses for leases issued under group 3500 of this title shall be paid to the proper BLM office. In addition, all second year and subsequent rentals for non-producing leases covering: Coos Bay Wagon Road; Oregon and California Grant; National Grasslands; the south half of the Red River, Oklahoma; or acquired Taylor Grazing Act lands shall be paid to the proper BLM office.

(2) All second-year and subsequent rentals and all payments for leases not covered by paragraph (a)(1) of this section shall be paid to the Service.

(b) All royalties on producing leases and all payments under leases in their minimum production period shall be paid to the Service.

§ 3503.2–1 [Amended]

15. Section 3503.2–1 is amended by removing the phrase "permits, leases or licenses" and replacing it with the phrase "permits or leases", and by removing the figure "$10" and replacing it with the figure "$25".

§ 3503.3–1 [Amended]

16. Section 3503.3–1 is amended by:

A. Amending paragraph (a) by removing the heading "(a) *Permits (Prospecting)"* and replacing it with the heading "(a) *Prospecting permits."* and by removing the figure "25" and replacing it with figure "50";

* * * * *

B. By revising paragraph (b)(4) to read:

(b) * * *

(4) *Gilsonite (including all vein-type solid hydrocarbons).* Annual rental for gilsonite leases shall be $.50 per acre or fraction thereof per year during the continuance of the lease. The rental for each year shall be paid in advance, on or before the anniversary date of the lease, and shall be credited against the royalties for that year.;

C. Amending the heading of paragraph (b)(5) by removing the phrase "(5) *Solid (hardrock)"* and by replacing it with the phrase "(5) *Hardrock*" and by adding at the end thereof the sentence "The rental paid for any year shall be credited against any royalties for that year."; and

D. Removing paragraph (d) in its entirety.

§ 3503.3–2 [Amended]

17. Section 3503.3–2 is amended by:

A. Revising the title of the section to read "§ 3503.3–2 General statement royalties and overriding royalties";

B. Amending the heading of paragraph (a)(1)(ii) by removing the phrase "(ii) *Solid (hardrock)"* and replacing it with the phrase "(ii) *Hardrock"* and by removing the word "mineral" at the end of the paragraph and replacing it with the word "minerals";

C. Revising paragraph (b) to read:

* * * * *

(b) *Minimum annual royalty.* (1) At the request of the lessee, made prior to initiation of the lease year, the authorized officer may authorize the payment of minimum royalty in lieu of production for any particular lease year. Minimum royalty payments shall be credited to production royalties for that year.

(2) Leases issued on or after the effective date of these regulations shall require an advance annual minimum royalty payment of $3 per acre or fraction thereof per year beginning with the sixth year of the lease and continuing throughout the life of the lease.

(3) Leases due for renewal or readjustment after the effective date of these regulations shall require a minimum annual royalty payment of $3 per acre or fraction thereof beginning with the first full year after the date of the renewal or readjustment.

D. Revising the title of paragraph (c)(3) to read (3) Exceptions.

E. Revising the heading of paragraph (d), paragraph (d)(1), and the introductory text of paragraph (d)(2) to read:

* * * * *

(d) *Waiver, suspension or reduction of rental, minimum royalty or royalties.* (1) In order to encourage the greatest ultimate recovery of the leased minerals and in the interest of conservation, whenever the authorized officer determines it is necessary to promote development or finds that leases cannot be successfully operated under the terms provided therein, the rental or minimum royalty payments may be waived, suspended or reduced, or the royalty reduced.

2. An application for any of the above benefits shall be filed in duplicate in the proper BLM office. The application shall contain the serial number of the lease, the name of the record title holder and the operator or sublessee and a description of the lands by legal subdivision.

* * * * *

F. Amending paragraph (d)(2)(i) by removing the phrase "involving phosphate, potassium, sodium, and sulphur";

G. Amending paragraph (e)(3) by removing from the first sentence the phrase "in the direction or assent of the Secretary" and by adding at the end of the third sentence the phrase "or upon expiration of suspension, whichever occurs first"; and

H. Amending paragraph (e)(5) by removing the phrase "the act for phosphate, potassium, sodium or sulphur" and replacing it with the phrase "the Act"; and

I. Removing paragraph (e)(6) in its entirety.

18. Section 3504.1–1 is revised to read:

§ 3504.1–1 Statement.

(a) One of the following forms of bond shall be furnished:

(1) Corporate surety bond;

(2) Cash; or

(3) Personal bonds secured by negotiable U.S. bonds of a par value at least equal to the amount of the required surety bond, together with a power of attorney executed on a form approved by the Director, Bureau of Land Management.

(b) The applicant shall file the bond in the proper Bureau of Land Management office within 30 days of receiving notice. The bond shall be furnished on a form approved by the Director, Bureau of Land Management.

(c) The bonding obligation for a new lease may be met by an adjustment to an existing bond covering another lease within the same mining unit.

19. Section 3504.2–1 is revised to read:

the executive department, independent establishment or instrumentality having jurisdiction over the lands containing the deposits, or holding a mortgage or deed of trust secured by such lands, and subject to such conditions as that official may prescribe to ensure adequate utilization of the lands for the primary purpose for which they were acquired or are being administered; and

* * * * *

B. Amending the third full sentence in paragraph (d) by inserting a comma after the phrase "Any lease".

12. Section 3501.3–2 is amended by removing from paragraph (a) the phrase "lease, permit or license" from the three places it appears and replacing it with the phrase "lease or permit" and by removing from paragraph (b)(2) the phrase "a permittee, lessee or licensee must" and replacing it with the phrase "a permittee or licensee shall".

13. Section 3502.2 is revised to read:

§ 3502.2 Individuals—statement of citizenship.

Individual applicants shall submit a signed statement of citizenship and of compliance with the appropriate acreage limitations with each application for a permit or lease.

14. Section 3503.1–2 is revised to read:

§ 3503.1–2 Where remitted.

(a)(1) All first-year rentals and bonuses for leases issued under group 3500 of this title shall be paid to the proper BLM office. In addition, all second year and subsequent rentals for non-producing leases covering: Coos Bay Wagon Road; Oregon and California Grant; National Grasslands; the south half of the Red River, Oklahoma; or acquired Taylor Grazing Act lands shall be paid to the proper BLM office.

(2) All second-year and subsequent rentals and all payments for leases not covered by paragraph (a)(1) of this section shall be paid to the Service.

(b) All royalties on producing leases and all payments under leases in their minimum production period shall be paid to the Service.

§ 3503.2–1 [Amended]

15. Section 3503.2–1 is amended by removing the phrase "permits, leases or licenses" and replacing it with the phrase "permits or leases", and by removing the figure "$10" and replacing it with the figure "$25".

§ 3503.3–1 [Amended]

16. Section 3503.3–1 is amended by:

A. Amending paragraph (a) by removing the heading "(a) *Permits (Prospecting)"* and replacing it with the heading "(a) *Prospecting permits."* and by removing the figure "25" and replacing it with figure "50";

* * * * *

B. By revising paragraph (b)(4) to read:

(b) * * *

(4) *Gilsonite (including all vein-type solid hydrocarbons).* Annual rental for gilsonite leases shall be $.50 per acre or fraction thereof per year during the continuance of the lease. The rental for each year shall be paid in advance, on or before the anniversary date of the lease, and shall be credited against the royalties for that year.;

C. Amending the heading of paragraph (b)(5) by removing the phrase "(5) *Solid (hardrock)"* and by replacing it with the phrase "(5) *Hardrock*" and by adding at the end thereof the sentence "The rental paid for any year shall be credited against any royalties for that year."; and

D. Removing paragraph (d) in its entirety.

§ 3503.3–2 [Amended]

17. Section 3503.3–2 is amended by:

A. Revising the title of the section to read "§ 3503.3–2 General statement royalties and overriding royalties";

B. Amending the heading of paragraph (a)(1)(ii) by removing the phrase "(ii) *Solid (hardrock)"* and replacing it with the phrase "(ii) *Hardrock"* and by removing the word "mineral" at the end of the paragraph and replacing it with the word "minerals";

C. Revising paragraph (b) to read:

* * * * *

(b) *Minimum annual royalty.* (1) At the request of the lessee, made prior to initiation of the lease year, the authorized officer may authorize the payment of minimum royalty in lieu of production for any particular lease year. Minimum royalty payments shall be credited to production royalties for that year.

(2) Leases issued on or after the effective date of these regulations shall require an advance annual minimum royalty payment of $3 per acre or fraction thereof per year beginning with the sixth year of the lease and continuing throughout the life of the lease.

(3) Leases due for renewal or readjustment after the effective date of these regulations shall require a minimum annual royalty payment of $3 per acre or fraction thereof beginning with the first full year after the date of the renewal or readjustment.

D. Revising the title of paragraph (c)(3) to read (3) Exceptions.

E. Revising the heading of paragraph (d), paragraph (d)(1), and the introductory text of paragraph (d)(2) to read:

* * * * *

(d) *Waiver, suspension or reduction of rental, minimum royalty or royalties.* (1) In order to encourage the greatest ultimate recovery of the leased minerals and in the interest of conservation, whenever the authorized officer determines it is necessary to promote development or finds that leases cannot be successfully operated under the terms provided therein, the rental or minimum royalty payments may be waived, suspended or reduced, or the royalty reduced.

2. An application for any of the above benefits shall be filed in duplicate in the proper BLM office. The application shall contain the serial number of the lease, the name of the record title holder and the operator or sublessee and a description of the lands by legal subdivision.

* * * * *

F. Amending paragraph (d)(2)(i) by removing the phrase "involving phosphate, potassium, sodium, and sulphur";

G. Amending paragraph (e)(3) by removing from the first sentence the phrase "in the direction or assent of the Secretary" and by adding at the end of the third sentence the phrase "or upon expiration of suspension, whichever occurs first"; and

H. Amending paragraph (e)(5) by removing the phrase "the act for phosphate, potassium, sodium or sulphur" and replacing it with the phrase "the Act"; and

I. Removing paragraph (e)(6) in its entirety.

18. Section 3504.1–1 is revised to read:

§ 3504.1–1 Statement.

(a) One of the following forms of bond shall be furnished:

(1) Corporate surety bond;

(2) Cash; or

(3) Personal bonds secured by negotiable U.S. bonds of a par value at least equal to the amount of the required surety bond, together with a power of attorney executed on a form approved by the Director, Bureau of Land Management.

(b) The applicant shall file the bond in the proper Bureau of Land Management office within 30 days of receiving notice. The bond shall be furnished on a form approved by the Director, Bureau of Land Management.

(c) The bonding obligation for a new lease may be met by an adjustment to an existing bond covering another lease within the same mining unit.

19. Section 3504.2–1 is revised to read:

§ 3504.2–1 Compliance bonds.

(a) *Permit bond—Amount.* The applicant shall furnish a bond conditioned upon compliance with all terms of the prospecting permit issued pursuant to applications filed under this part. The bond shall be in an amount determined by the authorized officer, but not less than $1,000.

(b) *Lease bond—Amount.* A lessee shall furnish a bond conditioned upon compliance with all terms of any lease issued under this part. The bond shall be in the amount determined by the authorized officer, but not less than $5,000. The authorized officer reserves the right to increase the amount of the bond when deemed proper.

20. Section 3504.2–2 is revised to read:

§ 3504.2–2 Where filed and copies.

A single original copy of the bond shall be filed in the proper BLM office.

21. Section 3504.2–5 is revised to read:

§ 3504.2–5 Termination of period of liability.

The authorized officer shall not consent to termination of the period of liability under the bond unless an acceptable substitute bond has been filed or until all terms and conditions of the permit or lease have been fulfilled.

§§ 3504.3–3504.3–5 [Removed]

22. Sections 3504.3, 3504.3–1, 3504.3–2, 3504.3–3, 3504.3–4 and 3504.3–5 are removed in their entirety.

§ 3504.5–1 [Amended]

23. Section 3504.5–1 is amended by removing the phrase "for potassium, sodium, or phosphate", by inserting between the words, "amount of" and the figure "$75,000" the phrase "not less than" and by adding at the end thereof the sentence "The authorized officer reserves the right to increase the amount of the bond if he/she determines that said bond is not adequate."

§ 3504.6–1 [Amended]

24. Section 3504.6–1 is amended by removing the phrase "for potassium, sodium, or phosphate" and by adding at the end thereof the sentence "The authorized officer reserves the right to increase the amount of the bond if he/she determines that said bond is not adequate."

25. Section 3504.7–1 is revised to read:

§ 3504.7–1 Amount.

A lessee may furnish a collective bond in an amount not less than the total minimum coverage required if separate bonds on each lease were furnished.

26. Section 3504.8–2 is revised to read:

§ 3504.8–2 Penalty.

Thereafter, upon penalty of cancellation of all of the leases covered by such bond, the principal shall post a new nationwide bond in an amount determined by the authorized officer, but no less than $75,000, a new statewide bond in an amount of not less than $25,000 or a new collective bond, as the case may be, but within 6 months after notice, or within such shorter period as the authorized officer of the Bureau of Land Management may fix.

§§ 3404.9 and 3504.9–1 [Removed]

27. Sections 3504.9 and 3504.9–1 are removed in their entirety.

§ 3505.1–2 [Amended]

28. Section 3505.1–2 is amended by revising the title to read "Hardrock minerals." and by inserting after the word "arrangements" the phrase ", made by 1 or more persons, association or corporation, to justify operations on a large scale for the discovery, development, production or transportation of ores,".

29. Section 3505.3 is revised to read:

§ 3505.3 Hardrock minerals.

§§ 3509, 3509.1 (Subpart 3509—Surface Management) [Removed]

30. Subpart 3509 is removed in its entirety.

PART 3510—PROSPECTING PERMITS

31. Section 3510.0–3 is revised to read:

§ 3510.0–3 Authority.

Public domain and acquired lands. The Secretary is authorized to issue permits to prospect lands subject to the Mineral Leasing Act, as amended and supplemented, the Mineral Leasing Act for Acquired Lands and the Reorganization Plan No. 3 of 1946 as set forth in § 3500.0–3 of this title.

32. Section 3510.1–1 is revised to read:

§ 3510.1–1 Character of the lands.

(a) The Secretary is authorized to issue to qualified applicants permits to prospect mineral lands and mineral deposits in public domain and acquired lands disposed of with a reservation of the mineral deposits to the United States. In the case of phosphate, such permits shall not be issued unless the lands are also unclaimed and undeveloped.

(b) *Exception.* The Secretary is authorized to issue permits to prospect for sulphur in public lands or in public lands disposed of with a reservation of such deposits to the United States in the States of Louisiana and New Mexico.

33. Section 3510.1–2 is revised to read:

§ 3510.1–2 Removal of minerals.

A permit shall grant the permittee the exclusive right to prospect on and explore the lands involved to determine the existence of mineral deposits for which the permit was issued, subject to the terms and conditions of the permit and these regulations. Only such material may be removed from lands as is necessary for experimental work or the demonstration of the existence of a valuable deposit of the mineral in question.

§ 3511.1–3 [Amended]

34. Section 3511.1–3(c) is amended by removing the phrase "solid (hardrock)" and replacing it with the word "hardrock".

§ 3511.3–1 [Amended]

35. Section 3511.3–1 is amended by:

A. Revising paragraph (a) to read:

(a) *Duration.* (1) The authorized officer may extend potassium and gilsonite prospecting permits for a period not to exceed 2 years;

(2) Phosphate prospecting permits may be extended for a period not exceeding 4 years;

(3) Sodium and sulphur prospecting permits shall not be extended; and

(4) Hardrock mineral prospecting permits may be extended for a period not exceeding 4 years. Permits which were extended prior to the effective date of these regulations and which are still in effect, may be extended for an additional 2 years, upon application.

B. Amending paragraph (b) by removing from paragraph (b) the phrase "and after consultation with the Mining Supervisor of the Geological Survey" and by revising paragraph (b)(1) to read:

(1) The permittee has been unable with reasonable diligence to determine the existence of valuable deposits covered by the permit and desires to prosecute further the prospecting or exploration.

* * * * * *

§ 3511.3–3 [Amended]

36. Section 3511.3–3 is amended by removing the phrase "2 years, as may be determined to be allowable under the circumstances in each particular case." and replacing it with the following text: "periods set forth in § 3511.3–1(a) of this title. The duration of the extended prospecting permit shall commence upon the approval of the application for extension by the authorized officer."

PART 3520—PREFERENCE RIGHT AND COMPETITIVE LEASES

37. In § 3511.4–2, the heading of paragraph (a)(1)(ii) is amended by

removing the phrase "(ii) *Solid (Hardrock)*" and replacing it with the phrase "(ii) *Hardrock*".

38. Section 3520.1–1 is revised to read:

§ 3520.1–1 Preference right leases.

(a) The authorized officer shall, upon application, issue a lease to the holder of a prospecting permit for any leasable mineral or hardrock mineral if the permittee shows that, within the term of the permit, he/she discovered a valuable deposit of the mineral for which the permit was issued, and in the case of potassium, sodium and sulphur applications, if the land is chiefly valuable for said mineral.

(b) *Lease area.* The lease shall be for all or part of the lands embraced in the prospecting permit described in the application.

(c) *Applicability.* The requirements of paragraph (a) of this section shall apply to all applications filed after the effective date of this subpart and to all pending applications.

39. Section 3520.2–1 is revised to read:

§ 3520.2–1 Duration of leases.

(a)(1) Sodium, sulphur and asphalt in Oklahoma leases shall be issued for an initial term of 20 years subject to a preferential right to renew the lease for a 10-year term at the end of the initial term and each successive 10-year period thereafter upon such terms and conditions as may be incorporated in each lease or prescribed in general regulations issued by the Secretary of the Interior, including covenants relative to mining and reclamation methods, waste, period of preliminary development and minimum production.

(2) *Hardrock minerals.* The lease shall be issued for a period not exceeding 20 years, the term to be determined by the authorized officer after consultation with the surface management agency. The lease shall be subject to a preferential right to renew for a term not to exceed 10 years at the end of the initial term and each succeeding term thereafter, upon such terms and conditions as may be incorporated in each lease or prescribed in the general regulations issued by the Secretary, including covenants relative to mining and reclamation methods, waste, period of preliminary development and minimum production.

(b) Phosphate, potassium and gilsonite (including all vein-type solid hydrocarbons) leases shall be issued for an indeterminate period subject to readjustment, at the end of each twenty-year period thereafter, of such terms and conditions as may be incorporated in each lease or prescribed in general regulations issued by the Secretary of the Interior, including convenants relative to mining and reclamation methods, waste, period of preliminary development and minimum production.

§ 3520.2–4 [Removed]

40. Section 3520.2–4 is removed in its entirety.

41. Section 3521.1–1 is revised to read:

§ 3521.1–1 Requirements.

(a) An application for a preference right lease shall be filed in duplicate with the appropriate Bureau of Land Management office no later than 30 days after the prospecting permit expires. The application shall be accompanied by the first year's rental as required by § 3503.3–1(b) of this title. No specific form is required. The application shall include the following information:

(1) The name and address of the applicant;

(2) Statement of citizenship and qualifications (See subpart 3502 of this title);

(3) A complete and accurate description of the lands to be included in the lease (See § 3501.1–3 of this title);

(4) A statement of interests, direct or indirect, in other identified Federal leases, permits or applications therefor in the same State for the same mineral;

(5) A map(s) as may be available from State or Federal sources, which shows utility systems; the location of any proposed development or mining operations and facilities incidental thereto, including the approximate locations and areal extent of the areas to be used for pits, overburden and tailings; and the location of water sources or other resources which may be used in the proposed operations or facilities incidental thereto; and

(6) A narrative statement including:

(i) The anticipated scope, method and schedule of development operations, including the types of equipment to be used;

(ii) The method of mining anticipated, including the best available estimate of the mining sequence and production rate to follow; and

(iii) The relationship, if any, between the mining operations anticipated on the lands applied for and existing or planned mining operations or facilities incidental thereto, on adjacent Federal or non-Federal lands.

(b) The Bureau of Land Management shall submit a copy of the application to the appropriate surface management agency, if other than the Bureau of Land Management.

(c) The authorized officer or the appropriate surface management agency shall prepare the appropriate documentation required by the National Environmental Policy Act (See § 3500.3). The authorized officer or the appropriate surface management agency may request supplemental data regarding surface disturbance and reclamation, if not otherwise submitted under paragraph (a) of this section.

(d) The authorized officer shall determine if the permittee has discovered a valuable deposit, and in the case of sodium, sulphur or potassium, whether the lands are chiefly valuable for the said mineral. The determination shall be based on data furnished to the authorized officer by the permittee as required by 43 CFR Part 3570 during the life of the permit and supplemental data submitted at the request of the authorized officer, to determine the extent and character of the deposit, the anticipated mining and processing methods, the anticipated location, kind and extent of necessary surface disturbance, and measures to be taken to reclaim that disturbance.

(e) The authorized officer shall issue a lease to the permittee if it is determined that the permittee has discovered a valuable deposit, and in the case of sodium, sulphur and potassium, the lands are chiefly valuable for said mineral.

(f) The authorized officer shall reject the application and inform the permittee of the ground for the rejection if it is determined that the permittee did not discover a valuable deposit, or in the case of sodium, sulphur or potassium, the lands are not chiefly valuable for said mineral, or if the applicant fails to timely submit any requested information.

(g)(1) A permittee whose application is rejected may file a notice of appeal and statement of reasons for appeal in accordance with the procedures of 43 CFR Part 4.

(2) On alleging in an application facts sufficient to show entitlement to a lease, a permittee shall have a right to a hearing before an Administrative Law Judge in the Office of Hearings and Appeals.

(3) At the hearing, the permittee shall have both the burden of going forward and the burden of proof by a preponderance of the evidence that a valuable deposit of the minerals was discovered, and if the application is for a sodium, sulphur or potassium lease, that the lands are chiefly valuable for said mineral.

§§ 3521.1–3, 3521.1–4, and 3521.1–5 [Removed]

42. Sections 3521.1–3, 3521.1–4 and 3521.1–5 are removed in their entirety.

43. Section 3521.2–1 is revised to read:

§ 3521.2–1 Application.

Application—Forms. An application for a lease shall be filed in duplicate in the proper Bureau of Land Management office. No specific form is required. The application shall include the following:

(a) The name and address of the applicant;

(b) A complete and accurate description of the lands to be included in the lease (See § 3501.1–3 of this title); and

(c) Evidence that the lands are valuable for the mineral for which the application is made, with a statement as to the character, extent and mode of occurrence of the deposit; and

(d) If the authorized officer determines that lands meet the requirement of § 3521.2–2 of this title, they may be offered for sale under the regulations in this subpart.

44. Section 3521.2–2 is revised to read as follows:

§ 3521.2–2 Bureau motion.

If the authorized officer determines, after consultation with the surface management agency, that there are specific lands or deposits which are not under an outstanding prospecting permit or application for preference right lease, but which are valuable for a particular leasable or hardrock mineral, these lands or deposits may be offered for lease on the terms and conditions to be specified in the notice of lease offer to the qualified person who offers the highest bonus by competitive bidding at not less than the fair market value of the mineral deposit either at public auction or by sealed bids as provided in the notice of lease offer.

§ 3521.2–3 [Amended]

45. Section 3521.2–3 is amended by adding a new paragraph (b) to read:

(b) *Publication.* Notice of offer of lands for lease by competitive bidding shall be by publication once a week for 4 consecutive weeks and for any additional period as may be determined appropriate by the authorized officer in a newpaper of general circulation in the county in which the lands are located.

§ 3521.2–5 [Amended]

46. Section 3521.2–5(a) is amended by revising the eighth and ninth sentences to read "The recommendations of the panel shall be sent to the authorized officer who shall make the final decision, as soon as possible after the sale date, to accept or reject all bids. The successful bidder shall be notified in writing."

§ 3521.3–2 [Amended]

47. Section 3521.3–2(a)(2) is amended by inserting a comma after the words "pro tanto" and by removing the phrase ", or sulphur" and replacing it with the phrase ", sulphur, gilsonite or hardrock minerals".

48. Section 3522.1–2 is revised to read:

§ 3522.1–2 Failure to apply for renewal.

If the holder of a sodium, sulphur or hardrock mineral lease fails to apply for renewal as provided in § 3522.1–1 of this title, the lease shall expire as of the last day of its primary term or extended term and the lands covered by the lease shall be available for leasing.

49. Section 3524.1–2 is revised to read:

§ 3524.1–2 Fringe acreage—Potassium and phosphate.

(a) *Availability.* Lands determined to be available for leasing may be offered competitively in the manner specified in § 3521.2 of this title, except that if the authorized officer determines that the deposits in the lands applied for extend into an active mining unit held by the applicant, are a normal part of such mining unit, are lacking in sufficient reserves to warrant independent development as a single mining unit and are not of competitive interest to holders of other active mining units, he/she may, in the interest of conservation of natural resources, grant to such applicant a lease to mine and remove such adjoining deposits without competitive bidding.

(b) *Terms and conditions.* (1) *Potassium.* A noncompetitive lease granted under this section shall provide for a royalty on production as determined by the authorized officer, but not less than the highest rate of royalty in any Federal lease in the applicant's adjoining mining unit. Other terms and conditions shall be as determined by the authorized officer. Any other terms shall be prescribed as provided in subpart 3520 of this title.

(2) *Phosphate.* Noncompetitive leases. In applying this paragraph, fringe acreage may be leased noncompetitively without publication either by separate lease or by adding to an existing leasehold (within the aggregate limitation of 2,560 acres), subject to a bonus of not less than $1 an acre, a minimum royalty and such other terms and conditions as may be prescribed under subpart 3520 of this title.

(c) *Chargeability.* Any person, association or corporation holding existing leases for potassium on Federal lands whose acreage approximates the total acreage limitations in any one State as specified in § 3501.1–4(b) of this title, namely 25,600 acres for potassium, may file an application for a noncompetitive lease showing that the lease deposits extend into adjoining or adjacent Federal lands and that the lands containing such reserves are a necessary and normal part of a mining unit and seek to have such adjoining or adjacent lands designated fringe-acreage that shall not be chargeable under § 3501.1–4(b) of this title to the leasehold acreage of the applicant. Such application shall be accompanied by a nonrefundable filing fee of $25. The authorized officer may designate specific tracts by legal subdivision, not to exceed 2,560 acres for potassium, as not chargeable to the applicant under § 3501.1–4(b) of this title, upon determining that the application meets the requirements of this section and that such designation will result in the conservation of natural resources and will provide for economical and efficient recovery as a part of the mining unit.

(d) *Exceptions.* Potash lands and deposits in or adjacent to Searles Lake, California, are subject only to lease by competitive bidding, except as to potash mining rights included in sodium permits and leases issued under subparts 3510 and 3520 of this title.

50. Section 3524.1–3 is revised to read:

§ 3524.1–3 Sodium.

(a) *Excess acreage—Availability.* Where necessary in order to secure the economic mining of sodium, the authorized officer may permit a person, association or corporation to hold up to 15,360 acres in any one State, upon submittal of a satisfactory application. The application shall contain the following:

(1) Whether such person, association or corporation holds sodium leases and permits covering fee, railroad and State lands within the same area of its public lands holdings under sodium leases or permits, and if so, the description of those lands and the amount of acreage involved;

(2) The reasons why the additional public lands covering acreage in excess of 5,120 acres are actually necessary to secure an economic mining unit; and

(3) A log of all wells drilled for sodium on the lands which such person, association or corporation holds under sodium lease or permit, together with an analysis of the deposits discovered therein.

(b) *Fringe acreage—(1) Availability.* Any person, association or corporation holding existing sodium leases, upon a showing that the leased deposits extend into adjoining or adjacent Federal lands and that the lands containing such reserves are a necessary and normal part of a mining unit, may file an

application, accompanied by a nonrefundable filing fee of $25, with the proper BLM office for a noncompetitive lease not to exceed 2,560 acres, to hold such adjoining or adjacent Federal lands. Such lands would be chargeable to the applicable sodium acreage limitation specified in § 3501.1–4(b) of this title.

(2) *Approval.* If the authorized officer determines that the application meets the requirements of this section and that such designation will result in conservation of the natural resources and will provide for economical and efficient recovery as a part of the mining unit, a noncompetitive lease may be issued. The terms and conditions shall be the same as those specified in § 3524.1–2(b) of this title.

§ 3524.1–4 [Removed]

51. Section 3524.1–4 is removed in its entirety.

52. Section 3524.2 is revised to read:

§ 3524.2 Use of other minerals.

Phosphate—Use of silica, limestone or other rock. Any lease to develop and extract phosphates, phosphate rock and associated or related minerals under the provisions of the Act shall provide that the leasee may use so much of any deposit of silica or limestone or other rock situated on any public lands embraced in the lease as may be utilized in the processing or refining of the leased deposits or deposits from other lands upon payment of such royalty as may be determined by the authorized officer, which royalty may be stated in the lease when issued, or may be provided for by an attachment to the lease to be duly executed by the lessor and the lessee.

§ 3524.2–1 [Removed]

53. Section 3524.2–1 is removed in its entirety.

§ 3526.0–1 [Amended]

54. Section 3526.0–1 is amended by removing the phrase "potash or sulphur" and replacing it with the phrase "potassium, sulphur, gilsonite or hardrock minerals".

§ 3526.0–3 [Amended]

55. Section 3526.0–3 is amended by renumbering paragraph (e) as paragraph (g) and inserting new paragraphs (e) and (f) to read:

(e) *Gilsonite (including all vein-type solid hydrocarbons).* Section 21 of the Mineral Leasing Act (30 U.S.C. 241), as amended by the Combined Hydrocarbon Leasing Act of 1981 (95 Stat. 1070).

(f) *Hardrock minerals.* 16 U.S.C. 520 and section 402, Reorganization Plan No. 3 of 1946 (60 Stat. 1099), section 3 of the Act of September 9, 1949 (30 U.S.C. 192c) and section 3 of the Act of June 23, 1952 (66 Stat. 285).

§ 3526.2 [Amended]

56. Section 3526.2 is amended by:

A. Revising paragraph (b) to read:

* * * * *

(b) *Showing on preference right.* A preference right lease applicant shall show the timely submittal of a mineral preference right lease application which contains the information required in § 3521.1—1(d) of this title and which shows the discovery of a valuable mineral deposit of the permit mineral on the lands in question. The application shall also show for sodium, sulphur or potassium that the lands are chiefly valuable for such mineral.

B. Amending paragraph (d)(1) by removing the phrase "potash, or sulphur" and replacing it with the phrase "potassium, sulphur gilsonite or hardrock minerals.

PART 3540—[AMENDED]

§ 3540.1–1 [Amended]

57. Section 3540.1–1 is amended by removing the figure "$10" and replacing it with the figure "$25".

PART 3550—[AMENDED]

§ 3550.1–1 [Amended]

58. Section 3550.1–1 is amended by:

A. Amending paragraph (a)(1) by revising the heading of paragraph (a) to read "(1) *Solid leasable minerals other than coal and oil shale."* and by removing from the heading of paragraph (a)(2) the phrase "(2) *Solid (hardrock)* and replacing it with the phrase "(2) *Hardrock";* and

B. Amending paragraph (d) by removing the figure "$10" and replacing it with the figure "$25".

PART 3560—[AMENDED]

§ 3561.3–3 [Amended]

59. Section 3561.3–3 is amended by removing the phrase "A bond with approved corporate surety in the sum of $2,000 will" and replacing it with the phrase "A bond in the sum of $2,000 shall".

§ 3562.4–1 [Amended]

60. Section 3562.4–1(a) is amended by removing the figure "$10" and replacing it with the figure "$25".

§ 3562.5 [Amended]

61. Section 3562.5 is amended by removing the figure "$10" and replacing it with the figure "$25".

§ 3562.6 [Amended]

62. Section 3562.6 is amended by removing the figure "$10" and replacing it with the figure "$25".

§ 3562.8–1 [Amended]

63. Section 3562.8–1(b) is amended by removing the figure "$10" and replacing it with the figure "$25".

§ 3563.1–3 [Amended]

64. Section 3563.1–3(c) is amended by removing the figure "$10" and replacing it with the figure "$25".

§ 3563.1–4 [Amended]

65. Section 3563.1–4(f) is amended by removing the figure "$10" and replacing it with the figure "$25".

§ 3563.2–3 [Amended]

66. Section 3563.2–3(b) is amended by removing the figure "$10" and replacing it with the figure "$25".

§ 3563.2–4 [Amended]

67. Section 3563.2–4(g) is amended by removing the figure "$10" and replacing it with the figure "$25".

§ 3564.7–5 [Amended]

68. Section 3564.7–5 is amended by removing the figure "$10" and replacing it with the figure "$25".

§ 3565.0–3 [Amended]

69. Section 3565.0–3 is amended by removing the phrase "phosphate, sodium, and potassium deposits in public domain lands, including such lands generally" and replacing it with the phrase "oil, gas, coal, oil shale and leasable minerals found" and by removing the last sentence of the section.

§ 3566.4 [Removed]

70. Section 3566.4 is removed in its entirety.

§ 3568.3–1 [Amended]

71. Section 3568.3–1 is amended by removing the figure "$10" and replacing it with the figure "$25".

Garrey E. Carruthers,
Assistant Secretary of the Interior.
March 26, 1984.

[FR Doc. 84–10888 Filed 4–24–84; 8:45 am]

DEPT. OF INTERIOR
BUR. OF LAND MANAGEMENT
1985 MAR 15 AM 8 53
RECEIVED
MONTANA STATE OFFICE
BILLINGS, MONTANA

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

43 CFR Part 4700

[Circular No. 2544]

Wild Free-Roaming Horse and Burro Protection, Management and Control; Amendment To Provide for Waiver of Adoption Fee

Under the authority of the Act of September 8, 1959 (18 U.S.C. 47), the Act of December 15, 1971, as amended (16 U.S.C. 1331–1340), the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1701 *et seq.*) and the Act of June 28, 1934, as amended (43 U.S.C. 315), Part 4700, Subchapter D, Chapter II, Title 43 of the Code of Federal Regulations is amended as set forth below.

PART 4700—[AMENDED]

Section 4740.4–3 is amended by adding a new paragraph (d)(3) to read:

§ 4740.4–3 Custodial arrangements.

* * * * *

(d) * * *

(3) The Director may adjust or waive the adoption fee on determining that wild horses or burros in the custody of the Bureau of Land Management are unadoptable when the full adoption fee is required, and that it is in the public interest to adjust or waive the adoption fee stated in paragraph (a) of this section. The adjustment or waiver shall extend only to persons who are willing to maintain such animals privately, who demonstrate the ability to care for them properly, and who agree to comply with all rules and regulations relating to wild horses and burros.

Garrey E. Carruthers,

Assistant Secretary of the Interior.

April 23, 1984.

[FR Doc. 84-13746 Filed 5-15-84; 8:45 am]

Published in 49 F.R. 20654, May 16, 1984 - Effective May 16, 1984
Circular Distribution List

Library

DEPT. OF INTERIOR
BUR. OF LAND MANAGEMENT

1984 JUN 18 PM 2:24

RECEIVED
MONTANA STATE OFFICE
BILLINGS, MONTANA

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

43 CFR Part 5400

[Circular No. 2545]

Advertised Sales: General; Amendment to Procedures

Under the authority of the Act of August 28, 1937 (43 U.S.C. 1181(a)), and the Act of July 31, 1947 (30 U.S.C. 601 et seq.), Part 5400, Title 43 of the Code of Federal Regulations, is amended as set forth below.

PART 5400—[AMENDED]

§ 5401.0–6 [Amended]

Section 5401.0–6(a) is amended by revising the third sentence and adding a fourth sentence to read:

§ 5401.0–6 Policy

(a) * * * Competitive sales shall be offered by the authorized officer when access to the sale area is available to anyone who is qualified to bid. Further, timber that would normally be sold by negotiated sale because of lack of legal access may be sold competitively without access if the authorized officer determines that there is competitive interest in such a sale.

* * * * *

Dated: May 21, 1984.

Garrey E. Carruthers,

Assistant Secretary of the Interior.

[FR Doc. 84–15419 Filed 6–7–84; 8:45 am]

Published in 49 F.R. 23838, June 8, 1984 - Effective July 9, 1984.

Circular Distribution

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[Circular No. 2546]

43 CFR Parts 3100 and 3110

Oil and Gas Leasing and Noncompetitive Leases; Amendment to Simultaneous Oil and Gas Leasing Program

Under the authority of the Mineral Leasing Act of 1920, as amended and supplemented (30 U.S.C. 181 et seq.), the Mineral Leasing Act for Acquired Lands, as amended (30 U.S.C. 351–359), the Alaska National Interest Lands Conservation Act (16 U.S.C. 3101 et seq.), the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1701 et seq.), the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 760 et seq.), the Act of May 21, 1930 (30 U.S.C. 301–306), the Omnibus Budget Reconciliation Act of 1981 (Pub. L. 97–35), the Independent Offices Appropriation Act of 1952 (31 U.S.C. 483a), the Federal Oil and Gas Royalty Management Act of 1982 (30 U.S.C. 1701 et seq.), and the Attorney General's Opinion of April 3, 1941 (40 Op. Atty. Gen. 41), Parts 3100 and 3110, Group 3100, Subchapter C, Chapter II of Title 43 is amended as set forth below.

§ 3102.4 [Amended]

1. Section 3102.4 is amended by removing the period at the end of the first sentence and inserting the phrase ", except that applications filed under Subpart 3112 of this title shall not be deemed unacceptable for the failure to be dated.

2. Section 3103.2–1 is amended by renumbering paragraph (b) as paragraph (c) and inserting a new paragraph (b) to read:

§ 3103.2–1 Rental requirements.

* * * * *

(b) Each application filed under subpart 3112 of this title shall be accompanied by full payment of the first year's rental based on the total acreage appearing in the Notice of Land Available for Oil and Gas Simultaneous Applications.

* * * * *

3. Section 3112.1–3 is revised to read:

§ 3112.1–3 Posting of parcel list notice.

At the start of business on the first working day of February, April, June, August, October and December, a list of lands for which applications will be received shall be posted in the proper BLM office. Any change in the bi-monthly schedule of offerings shall be announced by publication in the **Federal Register** at least 30 days in advance of the date of posting. Copies of the posted notice may be purchased from the proper BLM office.

§ 3112.2–1 [Amended]

4. Section 3112.2–1 is amended by:

A. Revising paragraph (c) to read:

"(c) The application shall be signed and dated in accordance with § 3102.4 of this title. If signed by someone other than the applicant, the application shall show the relationship of the signatory to the applicant."; and

B. Amending paragraph (g) by removing the phrase ", dated".

5. Section 3112.2–2 is revised to read:

§ 3112.2–2 Filing fees and rentals.

Each Part B application form shall, when filed, be accompanied by a single remittance. The remittance shall consist of an amount sufficient to cover for each parcel included on the Part B application form a nonrefundable filing fee of $75 and the first year's rental payment. Failure to submit either a separate remittance for each Part B application form or an amount sufficient to cover all the parcels on each Part B application form, or both, shall cause the entire filing to be deemed unacceptable.

§ 3112.3 [Amended]

6. Section 3112.3 is amended by:

A. Amending paragraph (c) by removing the phrase "an unacceptable remittance" and replacing it with the phrase "a remittance not meeting the requirements of § 3103.1–1 of this title"; and

B. Amending paragraph (h) by inserting after the phrase "the filing fee" the phrase ", the first year's rental".

§ 3112.6–1 [Amended]

7. Section 3112.6–1 is amended by:

A. Amending paragraph (a) by removing from the first sentence the phrase "together with a request for payment of the first year's rental", by removing the third sentence in its entirety and by removing from the fourth sentence the phrase "and rental payment"; and

B. Amending paragraph (b)(1) by removing the phrase "and pay the first year's rental".

Dated: May 31, 1984.

Garrey E. Carruthers,

Assistant Secretary of the Interior.

[FR Doc. 84–17467 Filed 6–28–84; 8:45 am]

Published in 49 F.R. 127 June 29, 1984 - Effective July 30, 1984.
Circular Distribution

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

43 CFR Part 5000

[Circular No. 2547]

Forest Management Decisions; Administrative Remedies

Under the authority of the Act of August 28, 1937 (43 U.S.C. 1181 (a)), and the Act of July 31, 1947 (30 U.S.C. 601 et seq.), Parts 5540, 5450, and 5460, Group 5400, Subchapter E, Chapter II, Title 43 of the Code of Federal Regulations are amended as set forth below.

1. Group 5000 is amended by adding a new part 5000 to read:

PART 5000—ADMINISTRATION OF FOREST MANAGEMENT DECISIONS

Subpart 5003—Administrative Remedies

Sec.

5003.1 Effect of decisions; general.
5003.2 Notice of forest management decisions.
5003.3 Protests.

Authority: 43 U.S.C. 1181(a); 30 U.S.C. 601 et seq.; 43 U.S.C. 1701.

Subpart 5003—Administrative Remedies

§ 5003.1 Effect of decisions; general.

The filing of a notice of appeal under part 4 of this title shall not automatically suspend the effect of a decision governing or relating to forest management as described under Subparts 5003.2 and 5003.3.

§ 5003.2 Notice of forest management decisions.

(a) The authorized officer shall, when the public interest requires, specify when a decision governing or relating to forest management shall be implemented through the publication of a notice of decision in a newspaper of general circulation in the area where the lands affected by the decision are located, establishing the effective date of the decision. The notice in the newspaper shall reference 43 CFR Subpart 5003—Administrative remedies.

(b) When a decision is made to conduct an advertised timber sale, the notice of such sale shall constitute the decision document.

(c) For all decisions relating to forest management except advertised timber sales, the notice and decision document shall contain a concise statement of the circumstances requiring the action.

§ 5003.3 Protests.

(a) Protests of a forest management decision, including advertised timber sales, may be made within 15 days of the publication of a notice of decision or notice of sale in a newspaper of general circulation.

(b) Protests shall be filed with the authorized officer and shall contain a written statement of reasons for protesting the decision.

(c) Protests received more than 15 days after the publication of the notice of decision or the notice of sale are not timely filed and shall not be considered.

(d) Upon timely filing of a protest, the authorized officer shall reconsider the decision to be implemented in light of the statement of reasons for the protest and other pertinent information available to him/her.

(e) The authorized officer shall, at the conclusion of his/her review, serve his/her decision in writing on the protesting party.

(f) Upon denial of a protest filed under paragraph (a) of this section the authorized officer may proceed with implementation of the decision.

Dated: June 27, 1984.

Leona A. Power,

Acting Assistant Secretary of the Interior.

[FR Doc. 84-18629 Filed 7-12-84; 8:45 am]

Published in 49 F.R. 28560, July 13, 1984 - Effective August 13, 1984

Circular Distribution

Library

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

43 CFR Part 2710

[Circular No. 2548]

Sales—Federal Land Policy and Management Act; Amendment to the Sales Regulations

Under the authority of section 203 of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1713), Part 2710, Group 2700, Subchapter B, Chapter II of Title 43 of the Code of Federal Regulations is amended as set forth below.

PART 2710—[AMENDED]

§ 2710.0-6 [Amended]

2. Section 2710.0-6 is amended by:

a. Amending paragraph (b) by adding at the end thereof the sentence "Nominations or requests to have specific tracts of public lands offered for sale may also be made by direct request to the authorized officer."

b. Revising paragraph (c) to read:

* * * * *

(c)(1) The Federal Land Policy and Management Act (43 U.S.C. 1713(f)) provides that sales of public lands under this section shall be conducted under competitive bidding procedures established by the Secretary. However, where the Secretary determines it necessary and proper in order to assure equitable distribution among purchasers of lands, or to recognize equitable considerations or public policies, including but not limited to, a preference to users, lands may be sold by modified competitive bidding or without competitive bidding. In recognizing public policies, the Secretary shall give consideration to the following potential purchasers:

(i) The State in which the lands are located;

(ii) The local government entities in such State which are in vicinity of the lands;

(iii) Adjoining landowners;

(iv) Individuals; and

(v) Any other person.

(2) When a parcel of land meets the sale criteria of section 203 of the Federal Land Policy and Management Act (43 U.S.C. 1713), several factors shall be considered in determining the method of sale. These factors include, but are not limited to; competitive interest; needs of State and local governments; adjoining landowners; historical uses; and equitable distribution of land ownership.

(3) Three methods of sale are provided for in § 2711.3 of this title; competitive; modified competitive; and direct (non-competitive). The policy for selecting the method of sale is:

(i) Competitive sale as provided in § 2711.3-1 of this title is the general procedure for sales of public lands and may be used where there would be a number of interested parties bidding for the lands and (A) wherever in the judgment of the authorized officer the lands are accessible and usable regardless of adjoining land ownership and (B) wherever the lands are within a developing or urbanizing area and land values are increasing due to their location and interest on the competitive market.

(ii) Modified competitive sales as provided in § 2711.3-2 of this title may be used to permit the existing grazing user or adjoining landowner to meet the high bid at the public sale. This procedure will allow for limited competitive sales to protect on-going uses, to assure compatibility of the possible uses with adjacent lands, and avoid dislocation of existing users. Lands offered under this procedure would normally be public lands not located near urban expansion areas, or with rapidly increasing land values, and existing use of adjacent lands would be jeopardized by sale under competitive bidding procedures.

(iii) Direct sale as provided in § 2711.3-3 of this title may be used when the lands offered for sale are completely surrounded by lands in one ownership with no public access, or where the lands are needed by State or local governments or non-profit corporations, or where necessary to protect existing equities in the lands or resolve inadvertent unauthorized use or occupancy of said lands.

(4) When lands have been offered for sale by one method of sale and the lands remain unsold, then the lands may be reoffered by another method of sale.

(5) In no case shall lands be sold for less than fair market value."

* * * * *

§ 2711.1-1 [Amended]

3. Section 2711.1-1 is amended by adding a new paragraph (c) to read:

* * * * *

(c) Nominations or requests for sales of public lands may be made to the District office of the Bureau of Land Management for the District in which the public lands are located and shall specifically identify the tract being nominated or requested and the reason for proposing sale of the specific tract.

§ 2711.1-2 [Amended]

4. Section 2711.1-2 is amended by:

a. Revising paragraph (b) to read:

* * * * *

(b) Not less than 60 days prior to sale, notice shall be sent to the Member of the United States House of Representatives in whose district the public lands proposed for sale are located and the United States Senators for the State in which the public lands proposed for sale are located, the Senate and House of Representatives, as required by paragraph (f) of this section, to Governor of the State within which the public lands are located, to the head of the governing body of any political subdivision having zoning or other land use regulatory responsibility in the geographic area within which the public lands are located and to the head of any political subdivision having administrative or public services responsibility in the geographic area within which the lands are located. The notice shall be sent to other known interested parties of record including, but not limited to, adjoining landowners and current land users."; and

* * * * *

(b) Renumbering paragraph (d) as paragraph (f) and inserting new paragraphs (d) and (e) to read:

* * * * *

(d) The publication of the notice of realty action in the Federal Register shall segregate the public lands covered by the notice of realty action to the extent that they will not be subject to appropriation under the public land laws, including the mining laws. Any subsequent application, shall not be accepted, shall not be considered as filed and shall be returned to the applicant, if the notice segregates the lands from the use applied for in the application. The segregative effect of the notice of realty action shall terminate upon issuance of patent or other document of conveyance to such lands, upon publication in the Federal Register of a termination of the segregation or 270 days from the date of publication, whichever occurs first.

(e) The notice published under § 1610.5 of this title may, if so designated

Published in 49 F.R. 29012 July 17, 1984 - Effective August 6, 1984.
Circular Distribution

in the notice and is the functional equivalent of a notice of realty action required by this section, serve as the notice of realty action required by paragraph (a) of this section and may segregate the public lands covered by the sale proposal to the same extent that they would have been segregated under a notice of realty action issued under paragraph (a) of this section.

5. Section 2711.1–3 is revised to read:

§ 2711.1–3 Sales requiring grazing permit or lease cancellations.

When lands are identified for disposal and such disposal will preclude livestock grazing, the sale shall not be made until the permittees and lessees are given 2 years prior notification, except in cases of emergency, that their grazing permit or grazing lease and grazing preference may be cancelled in accordance with § 4110.4–2(b) of this title. A sale may be made of such identified lands if the sale is conditioned upon continued grazing by the current permittee/lessee until such time as the current grazing permit or lease would have expired or terminated. A permittee or lessee may unconditionally waive the 2-year prior notification. The publication of a notice of realty action as provided in § 2711.1–2(c) of this title shall constitute notice to the grazing permittee or lessee if such notice has not been previously given.

§ 2711.2 [Amended]

6. Section 2711.2(b) is amended by removing the word "law" and replacing it with the word "laws".

§ 2711.3–1 [Amended]

7. Section 2711.3–1 is amended by:

a. Revising the title to read:

§ 2711.3–1 Competitive bidding.

* * * * *

b. Amending paragraph (c) by removing from the second sentence the phrase "not less than one-fifth" and replacing it with the phrase "the amount required in the notice of realty action which shall be not less than 10 percent or more than 30 percent"; and by removing from the beginning of the third sentence the word "of" and replacing it with the word "or"; also by removing from the third sentence the word "drawing" and replacing it with the words "supplemental biddings; and removing the last sentence and replacing it with a new sentence to read: "The designated high bidders shall be allowed to submit oral or sealed bids as designated by the authorized officer."

c. Amending paragraph (d) by removing the phrase "30 days" and replacing it with the phrase "180 days" and by removing the word "30th" and replacing it with the word "180th".

§ 2711.3–2 [Amended]

8. Section 2711.3–2 is amended by:

a. Revising the title to read:

§ 2711.3–2 Modified bidding.

* * * * *

b. Amending paragraph (a)(1) by removing the period at the end of paragraph (ii) and replacing it with a semicolon and the word "or" and by adding a new paragraph (iii) to read:

* * * * *

(iii) Offering to designated bidders the right of first refusal to purchase the lands at fair market value. Failure to accept an offer to purchase the offered lands within the time specified by the authorized officer shall constitute a waiver of his preference consideration.;

* * * * *

c. Revising paragraph (b) to read:

* * * * *

(b) Where 2 or more designated bidders exercise preference consideration awarded by the authorized officer in accordance with paragraph (a)(1) of this section, such bidders shall be offered the opportunity to agree upon a division of the lands among themselves. In the absence of a written agreement, the preference right bidders shall be allowed to continue bidding to determine the high bidder.

* * * * *

d. Renumbering paragraphs (c) and (d) as paragraphs (d) and (e) and inserting a new paragraph (c) to read:

* * * * *

(c) Where designated bidders fail to exercise the preference consideration offered by the authorized officer in the allowed time, the sale shall proceed using the procedures specified in § 2711.3–1 of this title; and

* * * * *

9. A new § 2711.3–3 is added to read:

§ 2711.3–3 Direct sales.

(a) Direct sales (without competition) may be utilized, when in the opinion of the authorized officer, a competitive sale is not appropriate and the public interest would best be served by a direct sale. Examples include, but are not limited to:

(1) A tract identified for transfer to State or local government or nonprofit organization; or

(2) A tract identified for sale that is an intergal part of a project of public importance and speculative bidding would jeopardize a timely completion and economic viability of the project; or

(3) There is a need to recognize an authorized use such as an existing business which could suffer a substantial economic loss if the tract were purchased by other than the authorized user; or

(4) The adjoining ownership pattern and access indicate a direct sale is appropriate; or

(5) A need to resolve inadvertent unauthorized use or occupancy of the lands.

(b) Once the authorized officer has determined that the lands will be offered by direct sale and such determination has been issued, published and sent in accordance with procedures of this part, payment shall be made by the same instruments as authorized in § 2711.3–1(c) of this title.

(c) Failure to accept an offer to purchase the offered lands within the time specified by the authorized officer shall constitute a waiver of this preference consideration.

(d) Acceptance or rejection of an offer to purchase the lands shall be in accordance with the procedures set forth in § 2711.3–1 (f) and (g) of this title.

§ 2711.5–3 [Amended]

10. Section 2711.5–3 is amended by removing the phrase "publish in the Federal Register and".

Dated: June 18, 1984.

Garrey E. Carruthers,

Assistant Secretary of the Interior.

[FR Doc. 84–18877 Filed 7–16–84; 8:45 am]

Library

DEPT. OF INTERIOR
BUR. OF LAND MANAGEMENT
1984 AUG 31 AM 11: 25
RECEIVED
MONTANA STATE OFFICE
BILLINGS, MONTANA

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

43 CFR Parts 3100, 3110, and 3830

[Circular No. 2549]

Oil and Gas Leasing; Reinstatement of Leases and Conversion of Certain Claims

Under the authority of the Mineral Leasing Act of 1920, as amended and supplemented (30 U.S.C. 181 et seq.), the Mineral Leasing Act for Acquired Lands, as amended (30 U.S.C. 351–359), the Alaska National Interest Lands Conservation Act (16 U.S.C. 3101 et seq.), the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1701 et seq.), the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 760 et seq.), the Act of May 21, 1930 (30 U.S.C. 301–306), the Omnibus Budget Reconciliation Act of 1981 (Pub L. 97–35), the Independent Offices Appropriation Act of 1952 (31 U.S.C. 483a), the Federal Oil and Gas Royalty Management Act of 1982 (30 U.S.C. 188) and the Attorney General's Opinion of April 2, 1941 (40 Op. Atty. Gen. 41), Parts 3100 and 3110 of Group 3100 and Part 3800 of Group 3800, Subchapter C, Chapter II of Title 43 of the Code of Federal Regulations are amended as set forth below.

PART 3100—[AMENDED]

§ 3103.2-2 [Amended]

1. Section 3103.2-2 is amended by adding new paragraphs (j) and (k) as follows:

* * * * *

(j) On terminated leases that were originally issued noncompetitively and are reinstated under § 3108.2–3 of this title, and on noncompetitive leases that were originally issued under § 3108.2–4 of this title, the annual rental shall be $5 per acre or fraction thereof. For terminated leases that were originally issued competitively, the annual rental shall be $10 per acre or fraction thereof. For terminated noncompetitive leases that have been determined to be within a known geological structure outside of Alaska, or a favorable petroleum geological province in Alaska, prior to the filing of a petition to reinstate a lease or convert an abandoned, unpatented oil placer mining claim, the annual rental shall be an additional $2 per acre or fraction thereof. If lands within leases reinstated under the provisions of §§ 3108.2–3 and 3108.2–4 of this title are later determined to be within a known geological structure outside of Alaska, or a favorable petroleum geological province in Alaska, the annual rental shall be an additional $2 per acre or fraction thereof beginning with the first lease year after expiration of 30 days notice to the lessee. The provisions of this paragraph shall supersede the provisions of paragraphs (a) and (d) of this section for all leases reinstated or issued under §§ 3108.2–3 and 3108.2–4 of this title.

(k) Each succeeding time a specific lease is reinstated under § 3108.2–3 of this title, the annual rental on that lease shall increase by an additional $5 per acre or fraction thereof for leases that were originally issued noncompetitively and by an additional $10 per acre or fraction thereof for leases that were originally issued competitively.

§ 3103.3-1 [Amended]

2. Section 3103.3–1 is amended by revising paragraph (a) to read:

(a) Royalty on production shall be payable only on the mineral interest owned by the United States. The following royalty rates shall be paid in amount or value of the production removed or sold from the lease:

(1)(i) 12½ percent royalty on noncompetitive leases;

(ii) 16⅔ percent royalty on noncompetitive leases reinstated under § 3108.2–3 of this title, plus an additional 2 percentage point increase (e.g., to 18⅔; 20⅔, etc.) added for each succeeding reinstatement;

(iii) 12½ percent royalty on noncompetitive leases issued in lieu of unpatented oil placer mining claims under § 3108.2–4 of this title.

(2)(i) Such rates as are prescribed in the notice of sale in the case of all leases issued by competitive bidding;

(ii) On leases reinstated under § 3108.2–3 of this title, royalty shall increase 4 percentage points over the competitive royalty schedule in force and used for royalty determination for competitive leases, plus an additional 2 percentage point increase added for

Published in 49 F.R. 30446, July 30, 1984 - Effective August 29, 1984

each succeeding reinstatement (e.g., 12½ plus 4, plus 2; 12½ plus 4, plus 2, plus 2; etc.).

(3) From lands within exchange and renewal leases, the rate of royalty shall be identical to that prescribed in the prior leases, except that for a lease issued in exchange for or as a renewal of a lease carrying a flat royalty rate of 5 percent to the United States, the royalty rate shall be as follows:

(i) When the average production of oil for the calendar month in barrels per well per day is:

Not over 110, the royalty rate shall be 12½ percent;

Over 110, but not over 130, the royalty rate shall be 18 percent of all production;

Over 130, but not over 150, the royalty rate shall be 19 percent of all production;

Over 150, but not over 200, the royalty rate shall be 20 percent of all production;

Over 200, but not over 250, the royalty rate shall be 21 percent of all production;

Over 250, but not over 300, the royalty rate shall be 22 percent of all production;

Over 300, but not over 350, the royalty rate shall be 23 percent of all production;

Over 350, but not over 400, the royalty rate shall be 24 percent of all production; and

Over 400, the royalty rate shall be 25 percent of all production.

(ii) On gas, including inflammable gas, helium, carbon dioxide and all other natural gases and mixtures thereof, and on casinghead gasoline and other liquid products obtained from gas when the production per well per calendar day for the month is:

Not in excess of 5 million cubic feet, the royalty rate shall be 12½ percent of the amount or value of the gas and liquid products produced; and

In excess of 5 million cubic feet, the royalty rate shall be 16⅔ percent of the amount or value of the gas and liquid products produced.

(iii) On leases reinstated under § 3108.2–3 of this title, the royalty shall increase 4 percentage points over the percentages listed in subparagraphs (i) and (ii) of this paragraph, but in no case less than 16⅔ percent, plus an additional 2 percentage point increase for each succeeding reinstatement.

* * * * *

§ 3103.3–2 [Amended]

3. Section 3103.3–2 is amended by adding a new paragraph (d) to read:

* * * * *

(d) The minimum royalty provisions of this section shall be applicable to leases reinstated under § 3108.2–3 of this title and leases issued under § 3108.2–4 of this title.

§ 3103.4–1 [Amended]

4. Section 3103.4–1 is amended by adding a new paragraph (d) to read:

* * * * *

(d) Petition may be made for reduction of royalty under § 3108.2–3(f) for leases reinstated under § 3108.2–3 of this title and under § 3108.2–4(i) for noncompetitive leases issued under § 3108.2–4 of this title. Petitions to waive, suspend or reduce rental or minimum royalty for leases reinstated under § 3108.2–3 of this title or for leases issued under § 3108.2–4 of this title may be made under this section.

§ 3107.6 [Amended]

5. Section 3107.6 is amended by removing the figure "§ 3108.2" where it appears and replacing it with the figure "§ 3108.2–1", by removing paragraph (a) in its entirety, by redesignating paragraphs (b) and (c) as paragraphs (a) and (b) and by amending new paragraph (b) by adding at the end thereof the words ", but in no event for more than 2 years from the date the reinstatement is authorized and so long thereafter as oil or gas is produced in paying quantities."

6. Section 3108.2 is amended by revising the heading to read:

§ 3108.2 Termination by operation of law and reinstatement.

§ 3108.2–1 [Amended]

7. Section 3108.2–1 is amended by:

A. Revising the heading to read:

§ 3108.2–1 Automatic termination.

B. Removing paragraph (c) in its entirety.

8. New §§ 3108.2–2, 3108.2–3 and 3108.2–4 are added to read:

§ 3108.2–2 Reinstatement at existing rental and royalty rates—Class I reinstatements.

(a) Except as hereinafter provided, the authorized officer may reinstate a lease which has terminated for failure to pay on or before the anniversary date the full amount of rental due, provided that:

(1) Such rental was paid or tendered within 20 days after the anniversary date; and

(2) It is shown to the satisfaction of the authorized officer that the failure to timely submit the full amount of the rental due was either justified or not due to a lack of reasonable diligence on the part of the lessee; and

(3) A petition for reinstatement, together with a nonrefundable filing fee of $25 and the required rental, including any back rental which has accrued from the date of the termination of the lease, is filed with the proper BLM office within 60 days after receipt of Notice of Termination of Lease due to late payment of rental.

(b) The burden of showing that the failure to pay on or before the anniversary date was justified or not due to lack of reasonable diligence shall be on the lessee.

(c) Under no circumstances shall a terminated lease be reinstated if:

(1) A valid oil and gas lease has been issued prior to the filing of a petition for reinstatement affecting any of the lands covered by that terminated lease; or

(2) The oil and gas interests of the United States in the lands have been disposed of or otherwise have become unavailable for leasing.

(d) The authorized officer shall not issue a lease for lands which have been covered by a lease which terminated automatically until 90 days after the date of termination.

§ 3108.2–3 Reinstatement at higher rental and royalty rates—Class II reinstatements.

(a) The authorized officer may, if the requirements of this section are met, reinstate an oil and gas lease which was terminated by operation of law for failure to pay rental timely when the rental was not paid or tendered within 20 days of the termination date and it is shown to the satisfaction of the authorized officer that such failure was justified or not due to a lack of reasonable diligence, or no matter when the rental was paid, it is shown to the satisfaction of the authorized officer that such failure was inadvertent.

(b)(1) For leases that terminate on or after January 12, 1983, consideration may be given to reinstatement if the required back rental and royalty at the increased rates accruing from the date of termination, together with a petition for reinstatement, are filed on or before the earlier of:

(i) Sixty days after the receipt of the Notice of Termination sent to the lessee of record; or

(ii) Fifteen months after termination of the lease.

(2) After determining that the requirements for filing of the petition for reinstatement have been timely met, the authorized officer may reinstate the lease if:

(i) No valid lease has been issued prior to the filing of the petition for reinstatement affecting any of the lands covered by the terminated lease, whether such lease is still in effect or not;

(ii) The oil and gas interests of the United States in the lands have not been

disposed of or have not otherwise become unavailable for leasing;

(iii) Payment of all back rentals and royalties at the rates established for the reinstated lease, including the release to the United States of funds being held in escrow, as appropriate;

(iv) An agreement has been signed by the lessee and attached to and made a part of the lease specifying future rentals at the applicable rates specified for reinstated leases in § 3103.2–2 of this title and future royalties at the rates set in § 3103.3–1 of this title for all production removed or sold from such lease or shared by such lease from production allocated to the lease by virtue of its participation in a unit or communitization agreement or other form of approved joint development agreement or plan;

(v) A notice of the proposed reinstatement of the terminated lease and the terms and conditions of reinstatement has been published in the **Federal Register** at least 30 days prior to the date of reinstatement for which the lessee shall reimburse the Bureau for the full costs incurred in the publishing of said notice; and

(vi) The lessee has paid the Bureau a nonrefundable administrative fee of $500.

(c) The authorized officer shall not, after the receipt of a petition for reinstatement, issue a new lease affecting any of the lands covered by the terminated lease until all action on the petition is final.

(d) The authorized officer shall furnish to the Chairpersons of the Committee on Interior and Insular Affairs of the House of Representatives and of the Committee on Energy and Natural Resources of the Senate, at least 30 days prior to the date of reinstatement, a copy of the notice, together with information concerning rental, royalty, volume of production, if any, and any other matter which the authorized officer considers significant in making the determination to reinstate.

(e) If the authorized officer reinstates the lease, the reinstatement shall be as of the date of termination, for the unexpired portion of the original lease or any extension thereof remaining on the date of termination, and so long thereafter as oil or gas is produced in paying quantities. Where a lease is reinstated under this section and the authorized officer finds that the reinstatement of such lease either (1) occurs after the expiration of the primary term or any extension thereof, or (2) will not afford the lessee a reasonable opportunity to continue operations under the lease, the authorized officer may extend the term of the reinstated lease for such period as determined reasonable, but in no event for more than 2 years from the date of the reinstatement and so long thereafter as oil or gas is produced in paying quantities.

(f) The authorized officer may, either in acting on a petition for reinstatement or in response to a request filed after reinstatement, or both, reduce the royalty in that reinstated lease on the entire leasehold or any tract or portion thereof segregated for royalty purposes, if he/she determines there are either economic or other circumstances which could cause undue economic hardship or premature termination of production; or because of any written action of the United States, its agents or employees, which preceded, and was a major consideration in, the lessee's expenditure of funds to develop the lands covered by the lease after the rental had become due and had not been paid; or if the authorized officer determines it is equitable to do so for any other reason.

§ 3108.2–4 Conversion of unpatented oil placer mining claims—Class III reinstatement.

(a) For any unpatented oil placer mining claim validy located prior to February 24, 1920, which has been or is currently producing or is capable of producing oil or gas, and has been or is deemed after January 12, 1983, conclusively abandoned for failure to file timely the required instruments or copies of instruments required by section 314 of the Federal Land Policy and Management Act (43 U.S.C. 1744), and it is shown to the satisfaction of the authorized officer that such failure was inadvertent, justifiable or not due to lack of reasonable diligence on the part of the owner, the authorized officer may issue, for the lands covered by the abandoned unpatented oil placer mining claim, a noncompetitive oil and gas lease consistent with the provisions of section 17(e) of the act (30 U.S.C. 226(e)). The effective date of any lease issued under this section shall be from the statutory date that the claim was deemed conclusively abandoned.

(b) The authorized officer may issue a noncompetitive oil and gas lease if a petition has been filed in the proper BLM office for the issuance of a noncompetitive oil and gas lease accompanied by the required rental and royalty, including back rental and royalty accruing, at the rates specified in §§ 3103.2–2 and 3103.3–1 of this title, for any claim deemed conclusively abandoned after January 12, 1983. The petition shall have been filed on or before the 120th day after the final notification by the Secretary or a court of competent jurisdiction of the determination of the abandonment of the oil placer mining claim.

(c) The authorized officer shall not issue a noncompetitive oil and gas lease under this section if a valid oil and gas lease has been issued affecting any of the lands covered by the abandoned oil placer mining claim prior to the filing of the petition for issuance of a noncompetitive oil and gas lease.

(d) After the filing of a petition for issuance of a noncompetitive oil and gas lease covering an abandoned oil placer claim, the authorized officer shall not issue any new lease affecting any lands covered by such petition until all action on the petition is final.

(e) Any noncompetitive lease issued under this section shall include:

(1) Terms and conditions for the payment of rental in accordance with § 3103.2–2(j) of this title. Payment of back rentals accruing from the date of abandonment of the oil placer mining claim, at the rental set by the authorized officer, shall be made prior to the lease issuance.

(2) Royalty rates set in accordance with § 3102.3–1 of this title. Royalty shall be paid at the rate established by the authorized officer on all production removed or sold from the oil placer mining claim, including all royalty on production made subsequent to the date the claim was deemed conclusively abandoned prior to the lease issuance.

(f) Noncompetitive oil and gas leases issued under this section shall be subject to all regulations in Part 3100 of this title except for those terms and conditions mandated by Title IV of the Federal Oil and Gas Royalty Management Act.

(g) A notice of the proposed conversion of the oil placer mining claim into a noncompetitive oil and gas lease, including the terms and conditions of conversion, shall be published in the **Federal Register** at least 30 days prior to the issuance of a noncompetitive oil and gas lease. The mining claim owner shall reimburse the Bureau for the full costs incurred in the publishing of said notice.

(h) The mining claim owner shall pay the Bureau a nonrefundable administrative fee of $500 prior to the issuance of the noncompetitive lease.

(i) The authorized officer may, either in acting on a petition to issue a noncompetitive oil and gas lease or in response to a request filed after issuance, or both, reduce the royalty in such lease, if he/she determines there are either economic or other circumstances which could cause undue economic hardship or premature termination of production.

PART 3110—[AMENDED]

§ 3110.1-3 [Amended]

9. Section 3110.1-3(a) is amended by adding at the end thereof the sentence "This paragraph shall not apply to offers made under § 3108.2-4 of this title."

§ 3110.3 [Amended]

10. Section 3110.3(c) is amended by removing the figure "60" and replacing it with the figure "90".

PART 3111—[AMENDED]

§ 3111.1-1 [Amended]

11. Section 3111.1-1(a) is amended by inserting after the first sentence thereof the sentence "For noncompetitive leases processed under § 3108.2-4 of this title, the current lease form shall be used."

§ 3111.2-1 [Amended]

12. Section 3111.2-1 is amended by adding a new paragraph (e) to read:

* * * * *

(e) The requirements of this section shall apply to applications for conversion of abandoned unpatented oil placer mining claims made under § 3108.2-4 of this title, except that deficiencies shall be curable.

PART 3830—[AMENDED]

§ 3833.4 [Amended]

13. Section 3833.4 is amended by adding a new paragraph (e) to read:

* * * * *

(e) Title IV of the Federal Oil and Gas Royalty Management Act of 1982 (30 U.S.C. 188(f)) provides that where an unpatented oil placer mining claim validly located prior to February 24, 1920, which has been or is currently producing or is capable of producing oil or gas, has been or is hereafter deemed conclusively abandoned for failure to file timely the required instruments or copies of instruments required by section 314 of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1744), and it is shown to the satisfaction of the authorized officer that such failure was inadvertent, justifiable, or not due to lack of reasonable diligence on the part of the owner, the authorized officer may issue, for the lands covered by the abandoned unpatented oil placer mining claim, a noncompetitive oil and gas lease consistent with the provisions of section 17(e) of the Mineral Leasing Act (30 U.S.C. 226(e)) to be effective from the statutory date the claim was conclusively abandoned. The conditions and requirements for issuance of such leases are contained in § 3108.2-4 of this title.

J. Steven Griles,
Acting Assistant Secretary of the Interior.
July 6, 1984.

[FR Doc. 84-20003 Filed 7-27-84; 8:45 am]